Council of the European Union

Brussels, 5 December 2023
(OR. en)

**16338/23**
**ADD 4**

**Interinstitutional File:**
**2023/0435(COD)**

**CONSOM 460**
**MI 1082**
**COMPET 1224**
**TOUR 44**
**TRANS 570**
**IA 344**
**CODEC 2379**

**COVER NOTE**

| | |
|---|---|
| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 30 November 2023 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
| No. Cion doc.: | SWD(2023) 906 final |
| Subject: | COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a Directive of the European Parliament and of the Council **amending Directive (EU) 2015/2302 to make the protection of travellers more effective and to simplify and clarify certain aspects of the Directive** |

Delegations will find attached document SWD(2023) 906 final.

Encl.: SWD(2023) 906 final

EUROPEAN
COMMISSION

Brussels, 29.11.2023
SWD(2023) 906 final

# COMMISSION STAFF WORKING DOCUMENT

# IMPACT ASSESSMENT REPORT

*Accompanying the document*

**Proposal for a Directive of the European Parliament and of the Council**

**amending Directive (EU) 2015/2302 to make the protection of travellers more effective and to simplify and clarify certain aspects of the Directive**

{COM(2023) 905 final} - {SEC(2023) 540 final} - {SWD(2023) 905 final} -
{SWD(2023) 907 final} - {SWD(2023) 908 final}

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## Glossary

| *Term or acronym* | *Meaning or definition* |
|---|---|
| ADR | Alternative Dispute Resolution |
| APRR | Air Passenger Rights Regulation |
| CPCs | Consumer Protection Cooperation Authorities |
| CJEU | Court of Justice of the European Union |
| BEUC | Bureau Européen des Unions de Consommateurs (European Consumer Organisation) |
| B2B | Business-to-Business |
| ECA | European Court of Auditors |
| CJEU | Court of Justice of the European Union |
| EEA | European Economic Area |
| EGFATT | European Guarantee Funds' Association for Travel and Tourism |
| EQ | Evaluation Questions |
| EU | European Union |
| GDP | Gross Domestic Product |
| GO | General Objective |
| IA | Impact Assessment |
| LTA | Linked travel arrangement |

| | |
|---|---|
| NCA | National Competent Authority |
| NPV | Net Present Value |
| PTD | Package Travel Directive |
| Q | Question (usually with a number behind, signalling the question numbers in the consultations)<br><br>Quarter (if in combination with a year) |
| SDG | Sustainable Development Goals |
| SMEs | Small and Medium-sized Enterprises |
| SO | Specific Objective |
| TEU | Treaty on European Union |
| TFEU | Treaty on the Functioning of the European Union |
| 2013 IA | 2013 Impact Assessment accompanying the document on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004l and Directive 2011/83/EU and repealing Council Directive 90/314/EEC, SWD(2013) 263 final |

# 1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

## 1.1. International and EU economic context

Tourism plays an increasingly important role in the global economy, accounting for over 10% of global gross domestic product (GDP) directly and indirectly. Driven rising incomes, falling travel-related costs and an increasing range of available tourism activities, the global number of tourists rose from 680 million in 2000 to over 1.5 billion in 2019.[1] The European Union, is the world's No 1 tourist destination,[2] receiving approximately two-thirds of international tourist arrivals in 2022.[3] The tourism industry plays a key role in the EU economy, with some 2.3 million tourism businesses and 10.9 million people working in the industry in 2020.[4]

European consumers use a range of ways to book travel services for the same trip or holiday. For instance, they can make separate bookings for transport and/or accommodation directly with service providers or via intermediaries. Alternatively, they can buy online, or offline pre-arranged or customised packages composed of different types of travel services.[5] They can use, for instance, the services of a tour operator, travel agency or any other trader offering packages.[6] Directive (EU) 2015/2302 on package travel and linked travel arrangements ('the Directive', 'the Package Travel Directive' or 'the PTD')[7] regulates such packages but does not apply to stand-alone services or the mere combination of different modes of transport.

Between 2014 and 2017, the number of packages[8] accounted on average for 9% of the total number of trips for personal reasons in the EU27.[9] Considering that, at that time, the definition of package of the 1990 Directive still applied, this figure will likely not include dynamic packages.[10] In the same period, package travel accounted for some 23% of the total spending for travel for personal reasons in the EU-27.[11] Package travel was expected to represent 10.5% of the travel and tourism market in

[1] International Monetary Fund, (2021), Tourism in the Post-Pandemic World. Economic challenges and opportunities for Asia-Pacific and the Western Hemisphere, no. 21/02.

[2] European Commission, (2013), Impact Assessment accompanying the document on package travel and assisted travel arrangements, SWD(2013) 263 final, available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2013:0263:FIN:EN:PDF

[3] Statista, (2022), Travel and tourism in Europe - statistics & facts, available at: https://www.statista.com/topics/3848/travel-and-tourism-in-europe/#topicHeader__wrapper

[4] https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Tourism_industries_-_economic_analysis

[5] For more details on the definition of packages, see Section 1.2 below.

[6] European Commission, (2019), Report from the Commission to the European Parliament and the Council on the provisions of Directive (EU) 2015/2302 on package travel and linked travel arrangements, applying to online bookings made at different points of sale (COM(2019) 270 final, p.1).

[7] Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1). Any references to specific articles of the Directive, are references to the 2015 Directive.

[8] In that period, the relevant definition of 'package' as in Article 2(1) of Directive 90/314/EEC on package travel, package holidays and package tours (pre-arranged combinations).

[9] Data from "Eurostat – Number of trips by type of organisation (from 2014 onwards), purpose – personal reasons, duration – 1 night or over, partner – all countries of the world", https://ec.europa.eu/eurostat/databrowser/view/TOUR_DEM_TTPUR/default/table?lang=en&category=tour.tour_dem.tour_dem_tt.tour_dem_tttc; no data available after 2017.

[10] Dynamic packaging is a method used in package holiday bookings to enable consumers to build their own package of flights, accommodation, and car rental instead of purchasing a pre-defined package. Dynamic packages were not covered by the definition of a package under the 1990 Directive.

[11] *Study to support the preparation of an evaluation of the Package Travel Directive back-to-back with an impact assessment on its potential revision*, not yet published, prepared by external consultant, ICF S.A, not yet published (hereinafter "ICF study").: "The sector generated spending of around EUR 66.50 bn in 2014, which accounted for 23%

2023 and 10.7% by 2027 in terms of "user penetration".[12] As such, the market share of package travel remains relatively stable since 2014.

The COVID-19 pandemic starting in 2020, with lockdowns and other measures taken by the Member States, inevitably affected these trends. The contribution of tourism to the total GDP in Europe halved from 9.5% in 2019 to 4.9% in 2020. Following the re-opening of borders and easing of COVID-19 related measures, the World Economic Forum reported on signs of recovery in the tourism market, with a 27% rise in 2021 in nights spent in tourist accommodation in the EU, as compared to 2020. However, this remained 37% lower than in 2019.[13] For 2022 there were prospects that the region would recover 70% of the pre-pandemic travel demand.[14] This trend is confirmed by Statista based on January 2023 figures, with the EU-27 total package travel sector revenue expected to reach EUR 96.4 bn in 2023. Revenue is expected to show an annual growth rate of 1.02%,[15] resulting in a projected market volume of EUR 100.4 bn by 2027. The number of travellers using package holidays is expected to amount to 94.6 million by 2027.[16]

### 1.2. The Package Travel Directive and related instruments or initiatives

A first directive on package travel, package holidays and package tours was adopted in 1990.[17] This Directive was replaced with Directive (EU) 2015/2302 on package travel and linked travel arrangements ('the Directive', 'the Package Travel Directive' or 'the PTD').[18] The Directive is part of the EEA acquis and thus applies in the 30 EEA-countries.[19] The PTD contains a broader definition of what constitutes a package than the 1990 Directive and introduced the new concept of linked travel arrangements (LTAs) for loser combinations of travel services.[20] Packages and linked travel arrangements are combinations of at least two different types of travel services (e.g., passenger

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of the total spending in the EU for travels for personal reasons. In 2017, the package sector generated an expenditure of roughly EUR 85.04 bn, which continued to account for 23% of the total spending in the EU for travels for personal reasons."

[12] Statista, Mobility Market Insights, Travel & Tourism, Package Travel Outlook, downloaded on 28 April 2023, https://www.statista.com/outlook/mmo/travel-tourism/package-holidays/eu-27?currency=EUR. The forecasts have been updated in January 2023 and take into account the impact on prices and market trends of the war on Ukraine.

[13] World Economic Forum, (2022), How quickly is tourism recovering from COVID-19?, available at: https://www.weforum.org/agenda/2022/03/europe-tourism-has-slow-pandemic-recovery/

[14] European Travel Commission, (2022), European Tourism 2022 – Trends & Prospects (Q2/2022), available at: https://etc-corporate.org/uploads/2022/07/Quarterly-Report-Q2-2022_Public-1.pdf

[15] Expected compound annual growth rate (CAGR) for the period 2023-2027.

[16] Statista, Mobility Market Insights, Travel & Tourism, Package Travel Outlook, downloaded on 28 April 2023, https://www.statista.com/outlook/mmo/travel-tourism/package-holidays/eu-27?currency=EUR. The predictions have been updated in January 2023 and take into account the impact on prices and market trends of the war on Ukraine.

[17] Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p. 59).

[18] Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1). Any references to specific articles of the Directive, are references to the 2015 Directive.

[19] Decision of the EEA Joint Committee No 187/2017 of 22 September 2017 amending Annex XIX (Consumer protection) to the EEA Agreement [2019/] (efta.int). https://www.efta.int/eea-lex/32015L2302.

[20] Under Article 3(5) PTD, LTAs are those where 'at least two different types of travel services purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers' Depending on how the services are booked, there can be two types of LTAs: type (a) where a trader facilitates the separate selection and separate payment of each travel service by travellers on the occasion of a single visit or contact with his point of sale; type (b) where a trader facilitates in a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

transport, such as a flight, and accommodation or car rental, however not the mere combination of different modes of transport). Depending on the booking process such combinations can be packages, offering full protection, or LTAs, offering more limited protection. The protected party in the PTD is the 'traveller', encompassing consumers and certain business travellers. This report uses 'traveller' and 'consumer' interchangeably. Organisers of a package are responsible for the proper performance of a package and are subject to various other obligations under the PTD. Where packages are sold via a third party (intermediary), this trader is referred to as a 'retailer'.

Package travellers enjoy the same comprehensive rights across the EU,[21] including in relation to pre-contractual information, the content of a contract, cancellations and contract changes, liability for improper performance, assistance, as well as protection against the insolvency of an organiser (refunds of pre-payments and repatriation).

The Directive started applying in July 2018. In June 2019, the Commission issued a report on the provisions of the Directive on online bookings made at different points of sale ('click-through bookings report').[22,23]

After the adoption of the first Package Travel Directive in 1990, five Regulations on passenger rights in different modes of transport were adopted at EU level. For example, Regulation (EC) No 261/2004 (the 'Air Passenger Rights Regulation' or 'APRR')[24] which provides for rights of air passengers in relation to flight cancellations, denied boarding or delays. This Regulation is complementary to the PTD, given that flights are often part of a package, and the relationship between both instruments is regulated in different provisions of the PTD and the APRR, aiming to achieve coherence between the two instruments.[25]

Overall, the PTD is more comprehensive in terms of consumer rights and provides for a higher level of consumer protection. For instance, unlike under the PTD, there is no compulsory protection for passengers against the air carrier's insolvency and no cancellation right for passengers due to unavoidable and extraordinary circumstances under the APRR. However, the Air Services

[21] The PTD, unlike the repealed 1990 Directive, is a full harmonisation directive (Article 4). Still, it gives the Member States regulatory options in a few specific respects (e.g., regarding the full liability of retailers in addition to the liability of organisers).

[22] Report from the Commission to the European Parliament and the Council on the provisions of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements applying to online bookings made at different points of sale (COM(2019)270 final, 21.6.2019(, accompanied by the Staff Working Document (SWD(2019) 270 final).

[23] In line with Article 3(2)(b)(v) of the PTD, a 'click-through package' is a combination of at least two different types of travel services for the purpose of the same trip or holiday that is purchased from separate traders through linked online booking processes where the traveller's name, payment details and e-mail address are transmitted from the trader with whom the first contract is concluded to another trader or traders and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

[24] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) - Commission Statement (OJ L 46, 17.2.2004, p. 1).

[25] Certain notions are similar in the two instruments, e.g., 'unavoidable and extraordinary circumstances' are used in the PTD (regarding cancellations by organisers and travellers and the organiser's liability) and 'extraordinary circumstances' in the APRR (in Article 5(3), excluding compensation for flights cancelled by the air carrier on these grounds). There are, in both acts, references to the other instrument to clarify their relationship: e.g., in PTD Article 13(7): extended stay if return journey delayed due to unavoidable and extraordinary circumstances or Article 14(5) regarding parallel compensation claims (no over-compensation); in the APRR, e.g. Article 8(2) from which it follows that the right to reimbursement under paragraph (1)(a) of that same provision does not apply where such a right arises under the PTD.

Regulation[26] provides for a strict financial oversight regime for airlines. An overview of the key consumer rights under the PTD and of the APRR is provided in Annex 11.

The outbreak of the COVID-19 pandemic led to mass cancellations of package holidays, while no new bookings came in. Due to the knock-on liquidity problems of organisers, many travellers did not receive refunds or only considerably later than the 14 days required under the PTD. In its Recommendation 2020/648 of May 2020 ('the 2020 Recommendation'),[27] the Commission set out principles on the use of voluntary vouchers and ways to make them more attractive for travellers, including by protecting them against the insolvency of the organiser. Uptake of the Recommendation has varied across the Member States. Several Member States even adopted legislation deviating from the Directive, extending the periods for refunds or making vouchers mandatory for travellers. In July 2020, the Commission therefore opened infringement proceedings against 11 Member States.[28]

The Commission's report of 26.2.2021 ('PTD Application Report')[29] provides an overview of how the Directive has been applied since July 2018, and how it has been transposed by the Member States into national law. It highlights several challenges, including those emerging from the 2019 Thomas Cook bankruptcy and the COVID-19 pandemic. The difficulties in applying the PTD, highlighted in the report, include the complexity and uncertainty caused by the provisions on LTAs, difficulties in issuing refunds and effective insolvency protection in a major crisis, including the lack of rules on vouchers and uncertainty on insolvency protection cover for vouchers and refund claims for cancelled packages. Moreover, the Commission has conducted an evaluation of the Directive, which can be found in Annex 13 to this staff working document ('SWD').

The European Court of Auditors ('ECA') issued a special report on the non-respect of air passenger rights during COVID-19.[30] In its recommendations, the ECA asked the Commission to examine how, including through legislative changes, the rights of air passengers and travellers can be strengthened, including in a crisis, regarding refunds for cancelled trips and the insolvency of operators.

In parallel to this review, the Commission is reviewing the passenger rights regulatory framework, under the initiative 'Travel – better protection for passengers and their rights',[31] including also the APRR.[32] The review of the APRR comprises refunds for cancelled flights where intermediaries are

[26] Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast), OJ L 293, 31.10.2008, p. 3–20.
[27] Commission Recommendation 2020/648 of 13.5.2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, C/2020/3125 (OJ L 151, 14.5.2020, p. 10).
[28] 15 Member States adopted specific rules temporarily allowing organisers of packages to impose vouchers, instead of reimbursing payments in money, for cancelled trips, or to postpone reimbursement beyond the 14-day period, which is contrary the PTD. The Commission opened infringement proceedings against 11 Member States.
See Commission's press communications of 2 July and 30 October 2020 (under point 5 – Justice): https://ec.europa.eu/commission/presscorner/detail/en/INF_20_1212 and https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687
[29] European Commission (2021): Report on the application of Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements, COM(2021) 90 final, ('PTD Application Report'): https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN
[30] Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf
[31] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13290-Travel-better-protection-for-passengers-and-their-rights_en
[32] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of

involved. In addition, the review of the Air Services Regulation, which remains to be completed, could increase coherence between air passenger rights and the PTD. This review covers the financial resilience of air carriers, including the question of insolvency protection for air carriers, potential limitations of prepayments, possible cancellation rights for air passengers and price transparency.

Given the comprehensive character of the PTD, the purpose of the amendments considered in this IAR is to fill specific gaps and clarify specific issues in this legal act. Given that the scope and purpose of the other acts and initiatives is different, the need to tackle these issues in the PTD is independent of these acts and initiatives. The filling of gaps and the clarifications considered for the PTD are particularly important for the protection of travellers in a crisis but would add value to the PTD also at normal times. The targeted changes considered relate, for instance, to the absence of rules on vouchers, uncertainty on insolvency protection for vouchers and refund claims and specific aspects of the cancellation of packages due to unavoidable circumstances.

In as much as this can be done in the PTD, the envisaged revision will further improve coherence between the PTD and the APRR, e.g., through the introduction of rules on vouchers and a business-to-business refund right.[33] The measures on pre-payments, insolvency protection and crisis mechanisms, which are part of the preferred option, take into account the state of play regarding passenger rights. Any further steps towards more coherence between the legislation on packages and transport services depend on developments in legislation managed by DG MOVE, for instance, in relation to the Air Services Regulation.[34]

The evaluation and review of the PTD is listed in the New Consumer Agenda of 13 November 2020,[35] where the Commission announced that by 2022 it would carry out a 'deeper analysis into whether the current regulatory framework for package travel, including as regards insolvency protection, is still fully up to the task of ensuring robust and comprehensive consumer protection at all times, taking into account also developments in the field of passenger rights.' Moreover, the initiative contributes to the Sustainable Development Goal ('SDG') SDG no. 10 – reduced inequalities, by facilitating better information provision by organisers and better protection of travellers' rights. It further aims at reducing the number of travellers needing recourse to dispute resolution or legal procedures, thereby contributing to SDG no. 16 – peace, justice and strong institutions. Finally, it contributes to SDG No. 8 – decent work and economic growth, by promoting growth of SMEs, as most package organisers belong to this category.

The PTD is in the scope of application of the Consumer Protection Cooperation Regulation ('CPC Regulation')[36] and the Representative Actions Directive ('RAD').[37] Thanks to these instruments, its enforcement will become more effective. Already today, the CPC Regulation provides, inter alia, for

flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) - Commission Statement (OJ L 46, 17.2.2004, p. 1).

[33] See the description of the relevant measures in Section 5.3.

[34] Such questions were originally included in the review of passenger rights. However, DG MOVE considered that it would be better to look at the impact of measures to mitigate the risk of a liquidity crisis or disorderly insolvency of an air carrier, and the reimbursement and repatriation in such cases, in the context of the impact assessment regarding the Air Services Regulation.

[35] COM/2020/696 final, EUR-Lex - 52020DC0696 - EN - EUR-Lex (europa.eu)

[36] Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004, OJ L 345, 27.12.2017, p. 1–26, EUR-Lex - 32017R2394 - EN - EUR-Lex (europa.eu)

[37] Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC, OJ L 409, 4.12.2020, p. 1-27, EUR-Lex - 32020L1828 - EN - EUR-Lex (europa.eu)

joint enforcement actions against non-compliant traders. Furthermore, through the recent initiative on Consumer protection – Strengthened Enforcement Cooperation,[38] this system will be strengthened also in relation to large EU-wide infringements. The RAD applies from June 2023, and increases the level of protection of travellers' and consumers' collective interests, both at national and cross-border level, for example by seeking injunctive and redress measures. Since the PTD lays down substantive rules, whereas the CPC Regulation and RAD are procedural rules, the instruments are complementary without raising potential coherence issues.

The recent Commission proposal on insolvency[39] aims to create more predictable conditions for cross-border investment in the EU by harmonising targeted aspects of substantive insolvency law. The PTD and the Insolvency Proposal aim at the proper functioning of the internal market but have a different purpose. Both instruments are complementary, and no potential conflict has been identified.

## 2. PROBLEM DEFINITION

### 2.1. What are the problems?

In the EU, package travel is a highly regulated market. Indeed, the PTD contains detailed rules on aspects such as pre-contractual information requirements, contract changes, cancellations, liability for improper performance, alternative arrangements, assistance to travellers and insolvency protection requirements for package organisers. In this way, the Directive aims to ensure a high level of protection for travellers and to contribute to fair competition in the internal market.

This initiative seeks to address three main problems which have contributed to the fact that the Directive is only partially effective, as found in the evaluation and described in more detail below, along with their regulatory and practical drivers. These three problems are: Problem 1 – Travellers face difficulties in recovering prepayments for cancelled packages, in particular in the event of a major crisis, Problem 2 – Prepayments made by travellers are not sufficiently protected against insolvency of the organiser, and Problem 3 – Difficulties in implementing the Directive.

These three problems interact and have a cumulative impact on the effectiveness of the Directive. Problem 1, as well as certain aspects of problems 2 and 3 manifested themselves, in particular, during the COVID-19 pandemic, whereas certain aspects of problems 2 and 3 were identified already before or independently of COVID-19. Most aspects covered by the three problems concern regulatory failure in the form of legal gaps and uncertainty regarding certain provisions and concepts of the Directive. In addition, certain aspects of problems 1 and 2, i.e. the challenges posed by the pre-payment model in the face of mass cancellations and the limited availability of insolvency protection insurance in some Member States, relate to market failure, predominantly in a major crisis.

[38] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13535-Consumer-protection-strengthened-enforcement-cooperation_en

[39] (COM(2022)702), https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12592-Insolvency-laws-increasing-convergence-of-national-laws-to-encourage-cross-border-investment_en

### *2.1.1. Problem 1: Travellers face difficulties in recovering prepayments for cancelled packages, in particular in the event of a major crisis*

Traditionally, pre-payments are the standard payment model in the package travel sector.[40] However, prepayments imply that, in case of cancellation, the organiser must reimburse travellers under certain conditions.[41]

Under the PTD, travellers and/or organisers have the right to cancel packages free of charge 'in the event of unavoidable and extraordinary circumstances', travellers being entitled to a full refund of any payments made for the package within 14 days from the termination of the contract.[42] As explained further below, before the COVID-19 pandemic, although travellers experienced problems in recovering prepayments in the event of cancellations of package travel contracts due to '"unavoidable and extraordinary circumstances'", the related refunds became problematic for travellers and organisers in particular during the COVID-19 pandemic.

*Before the COVID-19 period*, the losses experienced by travellers related to the cancellation of packages can be estimated based on the annual consumer expenditures for package travel. In 2017, these were estimated to reach 58 billion EUR (762 EUR per trip) for trips within the EU and 36 billion EUR (1.756 EUR per trip) for trips to other parts of the world.[43] This corresponds to around 76.1 million trips within the EU and 20.5 million trips to countries outside the EU. Based on the PTD Application Report, around 4.4% of package travellers experienced financial loss,[44] a fact that may have an impact of 5.4 billion EUR on trip values (both within and outside the EU). It is unlikely that the losses suffered by the affected travellers would have amounted to the total value of their trips. Considering that the value of the affected services represents between 10-30%[45] of the total package price, the losses suffered by travellers are estimated at between 540 million to 1.6 billion EUR per year in a normal year.[46]

According to consumer organisations, travellers faced challenges in recovering prepayments, albeit to a lesser extent as during the COVID-19.[47] This suggests that there were certain compliance issues

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[40] Commission Staff Working Document Impact Assessment, Accompanying the document on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004l and Directive 2011/83/EU and repealing Council Directive 90/314/EEC /* SWD/2013/0263 final */, page 76 (SWD/2013/0263 final), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52013SC0263

[41] A presentation of all the situations where organisers must reimburse travellers following the cancellation of the contract is included in Annex 11. *Presentation of the Package Travel Directive*

[42] In accordance with Article 12(2) and (5)

[43] PTD Application Report, p.2, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN

[44] The report states that 11% of all package travel consumers experienced problems, and 40% of these – that is 4.4% of all package travel consumers - experienced financial loss. PTD Application Report, p.3.

[45] The average price of an intra-EU flight is around 90 EUR per passenger (https://www.statista.com/statistics/1125265/average-ticket-price-selected-airlines-europe/), and the average long-haul price is 350 EUR per passenger (https://media.hopper.com/research/consumer-airfare-index-report-march-2022) which, in case of cancellation or delays would make up 12% of average intra-EU and 20% of international package travel price. Noting that the quoted airfares concern individually purchased tickets, it is assumed that airfares included in package trips may be more economical. Moreover, for the calculation of consumer losses, both flights (outgoing and return) would not necessarily be impacted. In terms of consumer losses related to accommodation services, an average hotel price per night in the EU between 100-200 EUR is considered. Consequently, losses resulting from unsatisfactory accommodation can impact 13-26% of package travel prices. Similarly, to airfare however, we estimate that accommodation is sold at a discount for package trips and consider that not the entirety of costs may be linked to consumer losses.

[46] In addition, based on an alternative calculation, ICF estimated the yearly consumer detriment at between EUR 126 million and EUR 378 million. ICF study (for full reference see footnote 11), not yet published, page 122-123

[47] Targeted survey for consumer organisations: According to replies to Q6, travellers received a full refund within 14 days or at least within one month only 'occasionally' before COVID-19. Moreover, travellers 'often' received a refund

also at ordinary times, but, in the absence of more specific information, it must be assumed that, in terms of the volume of refunds and the extent of the delay of refunds, the problems were much smaller than during the COVID crisis.

'To reinforce the enforcement and consumer protection', BEUC calls for automatic refunds for clear cut cases.[48,49] The organisers have travellers' data and 'could simply transfer the money to them automatically without the need for consumers to complain first. […] Similar schemes already exist in several sectors, including rail, energy in the UK or public transport in Denmark.'[50]

*The outbreak of COVID-19* in 2020 was a severe public health emergency, which also caused a major economic shock with unprecedented pressure on the EU's travel and tourism sectors.

To contain the COVID-19 pandemic, travel and other health-related restrictions were implemented since March 2020 at European and worldwide level. Those restrictions led to a vast number of cancellations of package travel contracts, impacting the tourism sector in all Member States and the EEA. For example, 'according to the Bulgarian authorities […] the spread of COVID-19 in 2020 led to a collapse of the tourism sector'[51] In Austria, '[d]uring the first lockdown […] in spring 2020, overnight tourist stays in the country dropped by almost 100%. Over the summer of 2020, despite temporary recovery, tourism activity remained clearly below 2019 levels. As of October 2020, another economic downturn in the Austrian tourism sector began due to the increase in the number of COVID-19 infections and the related travel warnings adopted in neighbouring countries. On 2 November 2020, a second lockdown was imposed during which accommodation establishments and restaurants had to close. […] overnight tourist stays in Austria dropped again by around 95% in November 2020. On 2 December 2020, the Austrian government announced that Austrian accommodation establishments would not reopen before January 2021. In January 2021, the website of the Federal Ministry for Agriculture, Regions and Tourism announces that accommodation

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only after filing a complaint, and 'rarely' without this procedure. National consumer authorities also pointed out that challenges regarding reimbursements (e.g., agreement of parties on whether the situation qualified as 'unavoidable and extraordinary circumstances' or significantly affected the package in question) that were observed 'to a small extent' before COVID-19 turned into significant ones during the pandemic. (See Annex 13, Evaluation, EQ 5.)

[48] *The Package Travel Directive: BEUC's Position on how to regain consumers' trust in the tourism sector*, p. 6 and 8, beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf.
*Passenger Rights 2.0: Towards better consumer protection and a more resilient travel sector*, p. 20, BEUC-X-2022-125_Better_Protection_of_Passengers_and_their_Rights.pdf

[49] 'Even simple refund and compensation claims often end up in vain due to the crippled enforcement procedures. This ends up being very frustrating' for consumers. See *Passenger Rights 2.0: Towards better consumer protection and a more resilient travel sector*, p. 20.

[50] Rail in the UK: several rail companies propose automated reimbursement arrangements to their customers. Similar initiative in Sweden exist in the railway sector (https://d3cez36w5wymxj.cloudfront.net/wp-content/uploads/2016/11/16173333/AGENCY-REPORT-delays-and compensation.pdf).
Energy in the UK: https://www.ofgem.gov.uk/publications/customers-entitled-automatic-compensation-switching-problems-1-may.
Public transport in Denmark: https://www.ofgem.gov.uk/publications/customers-entitled-automatic-compensation-switching-problems-1-may.
Automatic compensation is also an official recommendation of the European Court of Auditors formulated in its report on passenger rights, published in December 2018.
https://www.eca.europa.eu/Lists/ECADocuments/SR18_30/SR_PASSENGER_RIGHTS_EN.pdf

[51] State Aid SA.101306 (2021/N) – Bulgaria COVID-19: State aid to tour operators, available at: https://ec.europa.eu/competition/state_aid/cases1/202204/SA_101306_D0F7727E-0000-C49E-A61B-14A989909127_54_1.pdf

establishments will remain closed also in February 2021.'[52,53] The German authorities estimated 'that revenues of the travel industry in Germany decreased by EUR 10.8 billion by the end of June 2020.'[54] In Sweden, 'the revenues for travel agencies and tour operators […] was in average 78% lower from May 11 to November 11 2020, compared to the years before the COVID-19 outbreak.'[55] According to the French authorities, the COVID-19 gravely impacted the tourism sector 'representing between 7.5 and 9% of Gross Domestic Product' and the package travel market in particular, 'representing between 20 and 30% of this percentage.'[56]

While it is not possible to arrive at a robust estimate of the value or number of cancelled *packages*, the data available for *flights* can give an indication on the magnitude of the cancellation also for packages. 'The total reduction in passenger numbers was estimated at 346 million for the first six months of the year of 2020 by Eurostat, and at 800 million, or 67%, for the full year by the International Civil Aviation Organisation (ICAO).'[57] According to the estimation of the European Court of Auditors (ECA), roughly 50 million tickets were cancelled between March and May 2020.

In the Impact Assessment (IA) accompanying a proposal for a Regulation for common rules for enforcement of passenger rights, passenger rights for multimodal journeys, and reimbursements of airline tickets bought via an intermediary,[58] it is assumed that the percentage of tickets in terms of number of passengers[59,60] of scheduled and charter flights as part of package travel would be 1.5-3% each. [61]

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[52] Study from the Austrian National Bank (OeNB) „Totalausfall der Wintervorsaison bis Neujahr lässt ein Nächtigungsminus für das Gesamtjahr 2020 von 36 % erwarten", Wien, 04.12.2020, available at: https://www.oenb.at/Presse/20201204.html , State Aid SA.60521 (2020/N) – Austria COVID-19: State guarantee to package travel organisers and facilitators of linked travel services, available at: https://ec.europa.eu/competition/state_aid/cases1/20216/291287_2244193_99_2.pdf

[53] According to the Austrian authorities, the tourism sector, including the package travel market, is an important pillar of the Austrian economy contributing 7.3% to the Austrian value added. State Aid SA.60521 (2020/N) – Austria COVID-19: State guarantee to package travel organisers and facilitators of linked travel services, available at: https://ec.europa.eu/competition/state_aid/cases1/20216/291287_2244193_99_2.pdf

[54] State Aid SA.57741 (2020/N) – Germany COVID-19: Aid in the form of guarantees on vouchers issued for package tours, available at: https://ec.europa.eu/competition/state_aid/cases1/202032/287255_2178558_45_2.pdf

[55] State Aid SA.59639 (2021/N) – Sweden, COVID-19: aid scheme for travel agencies and tour operators, available at: https://ec.europa.eu/competition/state_aid/cases1/20217/291810_2244846_57_2.pdf

[56] State Aid SA.104022 (2022/N) – France State guarantee fund for travel operators ("Fonds de garantie des opérateurs de voyages et de séjours" or "FGOVS"), available at SA_104022_404A4C87-0000-C6F0-AC80-40B28799B06E_68_1.pdf (europa.eu)
https://ec.europa.eu/competition/state_aid/cases1/202314/SA_104022_404A4C87-0000-C6F0-AC80-40B28799B06E_68_1.pdf

[57] European Court of Auditors, Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf, p13

[58] SWD(2023) 386-SWD(2023) 389, page 84, Table: Airline ticket payment flows

[59] Based on evidence provided by IATA and estimates in the context of the impact assessment support study (based on evidence gathered by a group of 5 airlines, which shows that approximately 36% of all passengers' book via intermediary ticket vendors).

[60] Comparing the information provided by air carriers on the share of tickets sold via intermediary ticket vendors and the information provided by IATA on the amount (in euros) of ticket flows in ticket, it has been assumed that the share of tickets sold via intermediary ticket vendors is more or less proportional to the share of tickets sold (in paid amounts, as provided by IATA). The share of tickets sold via intermediary ticket vendors is considered proportional to the share of passengers booking via intermediary ticket vendors.

[61] Given the lack of clarity on the share of tickets, it has been assumed, using a cautious approach, that between 25% and 75% of ticket flows may fall within the scope of the Passenger Rights Regulation. The mid-point of this range has been considered, i.e., 3%. In addition, it has been considered that 3% of ticket flows are under the Package Travel Directive.

Between March and May 2020, at the beginning of COVID-19, the cancellation of approx. 50 million flight tickets,[62] triggered a decrease of flights of around 76% and a decrease of around 75% in expenditure on package trips in 2020 as compared to 2019.[63] Based on this data, and using the abovementioned estimate that the value of the affected flights included in packages would represent between 10-30% of the total package price, the losses could range from 500-1500 million during the first three months of the pandemic.[64]

Travellers from all Member States faced major difficulties in recovering prepayments within 14 days for cancelled packages during the COVID-19 pandemic.[65] By December 2020, thousands of travellers had not yet received a refund in money for cancelled holidays, according to Bureau Européen des Unions de Consommateurs (BEUC).[66,67,68]

More specifically, 85% (23 of 27) of national authorities indicated that refunds of prepayments were not provided within 14 days.[69] Organisers denied or postponed the refunds either by imposing vouchers/credit notes on travellers,[70] or extending the 14-day deadline for refunds by more than a month.[71] Travellers often received a refund only after filing a complaint to an enforcement body.[72]

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[62] European Court of Auditors, Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf, p13

[63] According to Eurostat, in EU-27, there was a total of 1146,44 million flights in 2019, 277 million flights in 2020 and 374 million flights in 2021.
Based on Eurostat for 2014, 2017, 2020, 2021, interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 and on firm level data (ORBIS) as well as on the European Commission 2023 Spring Economic Forecast, it resulted that the total expenditure for package trips was EUR 110.709 million in 2019, EUR 27.627 million in 2020, EUR 35.879 million in 2021, EUR 76.673 million in 2022 and EUR 110.709 million in 2023, the same level of 2019.
Based on Eurostat for 2014, 2017, 2020, 2021, interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 and on firm level data (ORBIS) as well as on the European Commission 2023 Spring Economic Forecast, it resulted that the average package price in EU-27, for trips within the EU and to the rest of the world, was of EUR 1.202 million in 2017, EUR 1.239 million in 2020, EUR 1.274 million in 2021, EUR 1.383 million in 2022 and EUR 1.475 million in 2023.

[64] An estimation of 4.029.660 cancelled packages during March – May 2020.

[65] Annex 13, Evaluation, EQ 5

[66] BEUC ('Bureau Européen des Unions de Consommateurs') is the umbrella group for 45 independent consumer organisations from 31 countries. BEUC represents the national consumer organisations to the EU institutions and defend the interests of European consumers.

[67] BEUC's Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers' of 14.12.2020, https://www.beuc.eu/publications/travel-voucher-chaos-continues-several-eu-countries-and-travel-industry-still-flouting/html

[68] 'No less than half of European households lost money as a result of the crisis' during the pandemic. Furthermore, there was 'tremendous increase in consumer complaints about travel issues', according to BEUC https://www.beuc.eu/sites/default/files/publications/beuc-x-2020-030_position_on_travelers_rights_in_the_covid-19_context.pdf, p 1, incl. footnote 1

[69] Targeted survey for NCAs (regulatory and enforcement), Q1

[70] Public consultation, Q41: 86% (18 of 21) of consumer organisations and 58% (11 of 19 ) public authorities. And see BEUC position papers submitted to the Inception Impact Assessment and to the public consultation that describes issues around imposition of vouchers.

[71] Public consultation, Section III additional questions for consumer organisations and public authorities, Q44: 52% (11 out of 21) of consumer organisations and 74% (14 out of 19) of public authorities. In Q36, a similar question addressed to individuals using packages, this scenario was indicated by 20% (10 out of 49) of EU citizens. (Non-EU citizens did not reply to this question).

[72] Public consultation Q44: When asked what happened frequently with regard the refund, 81% (17 of 21) of consumer organisations and 53% (10 of 19) of public authorities. In Q36, a similar question addressed to individuals, this scenario was indicated by 14% (7 of 49) of EU citizens.

Travellers were often not informed on their right to refuse vouchers [73] and sometimes traders refused to reimburse money for expired vouchers.[74] Moreover, some travellers did not use the vouchers for alternative trips and were, between February and May 2022, still waiting for their money.[75] In addition, travellers were referred from one trader to another, as the organiser and the retailer could not agree on who was responsible for the refund, thus triggering delay or no reimbursement.[76]

Therefore, the problems faced by travellers in recovering prepayments caused loss in consumer welfare, including by impeding travellers to dispose freely of the prepaid amount, and personal detriment (e.g., time loss, hassle and other psychological detriment).

For organisers, it proved difficult to comply with refund rights triggered by the PTD. On the one hand, organisers had booked travel services in advance for travellers, by making partial or full payments to service providers, while, on the other hand, travellers were cancelling their trips, asking for reimbursement, without the possibility for organisers to recover prepayments from service suppliers.[77] Since the number of bookings also collapsed, companies were unable to generate new sources of revenue to execute refunds, which had an impact on their liquidity.[78] At the same time, if service providers became insolvent in the meanwhile, organisers might not receive refunds at all.

Article 22 of the PTD[79] refers to a right of redress of organisers against third parties. However, this provision does not specify that service providers are obliged to make a refund to organisers within a given period where a service or a package is cancelled.

The losses experienced by organisers during the COVID-19 period (2020 and 2021 combined) could be estimated at 15 billion EUR based on the macro-estimate of total reduction in value.[80] However, the loss continued after the immediate COVID-19 years and could arrive at up to 25 billion EUR until the end of 2023. Nevertheless, in order to arrive at a net loss figure, state support measures and lower operating costs (e.g., fuel not used) would need to be deducted. Based on a rough gap analysis, support measures could have cushioned up to 40% of immediate crisis losses suffered by organisers.

[73] Targeted business survey Q15: Travellers were explicitly informed that they were not legally obliged to accept a voucher: 32% of 22 - to a small extent.
[74] Public consultation Q44: 57% (12 of 21) of consumer organisations and 11% (2 of 19) of public authorities.
[75] Public consultation Q44: 81% (17 of 21) of consumer organisations, 42% (8 of 19) of public authorities and in Q36, a similar question addressed to individuals using travel services, 6% (3 of 49) of EU citizens indicated the following scenario as frequently happening with regard to refund: travellers received vouchers of the same value but have not used them for alternative trips until the expiration date and are still waiting for their money. 52% (11 of 21) of consumer organisations and 11% (2 of 19) of public authorities indicated the scenario "Many travellers are still waiting for their money."
[76] Public consultation Q44: 67% (14 of 21) of consumer organisations and 32 % (6 of 19) of public authorities.
[77] ECTAA, (2020), COVID-19 and Tourism in Europe: Which Consequences for Travel Agencies and Tour Operators - Impact of Package Travel Directive and other EU legislation on the travel companies in the context of the pandemic, p. 6.
[78] Ibidem.
[79] Article 22 PTD reads as follows: 'In cases where an organiser or, in accordance with the second subparagraph of Article 13(1) or Article 20, a retailer pays compensation, grants price reduction or meets the other obligations incumbent on him under this Directive, Member States shall ensure that the organiser or retailer has the right to seek redress from any third parties which contributed to the event triggering compensation, price reduction or other obligations.'
[80] Based on data provided by Eurostat and on the European Commission 2023 Spring Economic Forecast

Organisers had to take out loans to cover the costs of refunds to travellers at least 'to a moderate extent'.[81] In several, but not all Member States, there were *aid schemes for package organisers* and other travel companies.[82,83]

Several Member States adopted *temporary rules deviating from the PTD*, 15 of them giving package organisers the possibility to significantly extend the periods for reimbursements or make vouchers mandatory for travellers. In July 2020, the Commission opened infringement proceedings against 11 Member States.[84] The infringement proceedings were closed after the relevant Member States repealed the legislation deviating from the PTD or after the relevant measures had expired. On 8 June 2023, the Court of Justice of the European Union (CJEU) confirmed the Commission's interpretation in the one remaining infringement case and in a preliminary ruling.[85] The CJEU confirmed that the PTD aims at full harmonisation[86] and that the term 'refund' in the PTD implies a refund consisting in an amount of money which travellers can dispose of freely and does not include the idea of a voucher.[87] The CJEU concluded that the Member States were not allowed to adopt national legislation releasing organisers temporarily from the obligation to reimburse prepayments to travellers within 14 days of the termination of the contract.

Overall, these national measures and the infringement cases demonstrate that the rules on refunds of prepayments of the PTD were often not respected during COVID-19. This is also confirmed by the ECA report of 29 June 2021.[88]

The protection of prepayments is an area needing improvement as noted in particular by consumer organisations, with BEUC recommending that the Commission 'consider amending the Directive to ensure that all European consumers benefit from a broader scope of financial protection of prepayments, including for cancelled travel in extraordinary circumstances and for respective vouchers.'[89]

Many national authorities believe that the protection of prepayments should be increased, indicating that this can be best addressed through amendments to the PTD,[90] while some believe it can be best

[81] Targeted business associations survey, Q15 N = 21: 38% indicated "To a large extent", 19% indicated "To a moderate extent". To be noted that 43% of respondents replied that they did not know whether organisers had to take out loans to cover the costs of refunds to travellers.
[82] Because of the impact of the pandemic on the economy in general as well as on the travel industry specifically, the European Commission enabled Member States to use the full flexibility foreseen under State aid rules to support the economy. In March 2020, the Temporary Framework was adopted to e.g., alleviate the aftermath of the travel ban measures and other sanitary restrictions which weighed on the EU's economy. The State Aid Temporary Framework. Available at: https://competition-policy.ec.europa.eu/state-aid/coronavirus/temporary-framework_en
[83] See also Annex 13, Evaluation, Appendix IX. Package travel during the COVID-19 pandemic.
[84] See Commission's press communications of 2 July and 30 October 2020 (under point 5 – Justice): https://ec.europa.eu/commission/presscorner/detail/en/INF_20_1212 and https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687
[85] Case C-407/21, ECLI:EU:C:2023:449, CURIA - List of results (europa.eu) and Case C-540/21, ECLI:EU:C:2023:450, CURIA - List of results (europa.eu)
[86] Case C-407/21, ECLI:EU:C:2023:449, paragraph 59, Case C-540/21, ECLI:EU:C:2023:450, paragraph 23
[87] Case C-407/21, ECLI:EU:C:2023:449, paragraphs 30 and 33 and Case C-540/21, ECLI:EU:C:2023:450, paragraph 69
[88] Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf
[89] BEUC (2020) BEUC's Position on traveller's rights during the COVID-19 crisis, page 6.
[90] Targeted survey for NCAs (regulatory and enforcement), Q32, N=26: 62% (16 of 26)

addressed through enforcement,[91] and a few believe that protection of prepayments does not require further action.[92]

Finally, most businesses pointed out that they would welcome a new EU rule that requires service providers to reimburse organisers where the cancellation is justified under the PTD, within a specific time-limit,[93] shorter than 14 days.[94]

Therefore, during COVID-19, market failures in relation to the prepayment model as well as payment and refund flows became apparent, while gaps and uncertainties in the legislation (regulatory failure), for instance, the lack of provisions on vouchers, made it more difficult for stakeholders to find appropriate solutions.

*Purely market-based insurance solutions* to tackle Problem 1 are not available. Under the PTD, travellers are legally entitled to a full refund if a package is cancelled due to unavoidable and extraordinary circumstances as well as to protection against the insolvency of an organiser. Therefore, there would be no need or demand for insurance policies for travellers to double these legal guarantees. Travel insurance policies available to travellers usually cover only certain personal risks (e.g., health care at the travel destination, including repatriation if the traveller has had an accident or is seriously ill, or cancellation because of the traveller's illness, including or excluding illness due to COVID-19). By contrast, such insurance policies usually exclude cancellations because of unavoidable and extraordinary circumstances such as a pandemic or large-scale catastrophes or environmental disasters.

Therefore, it is necessary to examine what measures could be taken to make the PTD rules more crisis-proof to the extent this is possible for a shock caused by an event of the magnitude of COVID-19, while taking into account that measures affecting the rules and the market at normal times must be proportionate.

#### *2.1.2. Problem 2: Prepayments made by travellers are not sufficiently protected against insolvency of the organiser*

Travellers have been protected against the insolvency of the organiser or, where relevant, of the retailer,[95] for over 30 years.[96,97] Organisers must provide security for the refund of all payments made

[91] Ibidem: 35% (9 of 26)
[92] Ibidem: 15% (4 of 26)
[93] Targeted business survey, Q22: 65% (15 out of 23) of the respondents.
[94] Targeted business survey, Q23: 60% (9 out of 15) of the respondents.
[95] In accordance with recital 42, Member States are 'allowed to require retailers to take out insolvency protection as well', '[g]iven the differences in national law and practice regarding the parties to a package travel contract and the receipt of payments made by or on behalf of travellers'.
[96] *Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours* laid down requirements for organisers and/or retailers to provide security for the refund of pre-payments and repatriation of travellers in the event of insolvency.
[97] Various rationales for insolvency protection can be considered. Specifically for the package travel sector, where prepayments are the standard model, '[i]nsolvency is a problem from an economic perspective, since it would allow some traders to gain particular benefits from consumers and to engage in risky behaviour, exposing themselves to the danger of insolvency. In the absence of a security mechanism, the trader could hence externalise the costs of insolvency to the consumers, which, in turn, would lead to under-deterrence.', *Security mechanisms for insolvencies in the package travel sector: an economic analysis*, Michael Faure, Franziska Weber, Article in Journal of Consumer Policy, December 2013 DOI: 10.1007/s10603-013-9222-4, https://www.researchgate.net/publication/257552200_Security_Mechanisms_for_Insolvencies_in_the_Package_Travel_Sector_An_Economic_Analysis

by or on behalf of travellers and, insofar as a package includes the carriage of passengers, for the traveller's repatriation in the event of the organiser's insolvency. Furthermore, the PTD introduced the principle of mutual recognition of insolvency protection among Member States and facilitated administrative cooperation between them, through a network of Central Contact Points.[98,99]

The PTD leaves it to Member States to establish the details of their national insolvency protection systems, provided that the security to be arranged is effective, meeting the criteria of Article 17 and Recitals 39-40.[100]

Overall, the 2015 PTD has led to a significant improvement of the national insolvency protection systems compared to the situation under the 1990 PTD.[101] While there is no evidence that the national insolvency protection systems had general problems in covering refunds and the repatriation of travellers, there were certain challenges in some Member States, in particular during major crises. The evaluation found that: (i) the different insolvency protection systems across the EU could potentially affect the effectiveness of the PTD; (ii) there is uncertainty and there are different practices on whether refund claims and vouchers are covered where a package is cancelled before an organiser becomes insolvent; (iii) there appear to be insufficient insurance solutions in the market or insurance solutions offered only at prohibitive prices, in particular during a crisis. These findings are further illustrated below.

*Different insolvency protection systems*

Member States have opted for *different means* to ensure that travellers are protected in case of insolvency. The vast majority of the Member States rely on private insolvency protection solutions, such as *insurance* policies to be taken out by organisers, provided either on a sole basis or in combination with other insolvency protection arrangements. Other private forms include bank guarantees. In some Member States there is a *guarantee fund* established as a public entity or a mixed system, where a form of private security is complemented by a publicly administered guarantee fund (double layer) or there are guarantee funds administered by private-public organisations.

Therefore, there is a landscape of *diverse insolvency protection systems across the EU*.[102] This does not necessarily imply that travellers are less well protected in some Member States than in other ones or that there is a potential distortion of competition in the EU that could lead companies to establish their businesses in Member States where insolvency protection requirements are less stringent.

[98] See Article 17 Effectiveness and scope of insolvency protection, Article 18 Mutual recognition of insolvency protection and administrative cooperation, and Article 19 Insolvency protection and information requirements for linked travel arrangements, recitals 38-44.

[99] Member States are obliged to recognise insolvency protection under the law of the Member State of establishment. In order to facilitate the administrative cooperation and supervision of organisers and, where applicable, retailers which are operating in different Member States with regard to insolvency protection, Member States are obliged to designate central contact points.

[100] In accordance with recital 39 and Article 17(5), effectiveness implies the security must become available, free of charge, 'as soon as, as a consequence of the organiser's liquidity problems, travel services are not being performed, will not be or will only partially be performed, or where service providers require travellers to pay for them.' For travel services that have not been performed, refunds must be provided without undue delay after the traveller's request. Furthermore, travellers must benefit from the protection regardless of their place of residence, the place of departure or where the package is sold and irrespective of the Member State where the entity in charge of the insolvency protection is located.

[101] PTD Application Report, p. 9, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN

[102] For details on the national insolvency protection systems, see Annex 13, Evaluation, Appendix X. Overview of national insolvency protection systems.

Indeed, organisers seem to use mutual recognition of insolvency protection only rarely.[103] Still, there are indications that different level of traveller protection and distortion of competition may have occurred or could occur in practice.

According to most consumer organisations and public authorities,[104] travellers in some Member States benefit from a higher level of protection than those in other Member States due to such differences, while these differences imply insufficient protection of travellers in some Member States.[105,106] However, no concrete examples were provided to support this view.

Nevertheless, most public authorities consider that, at least 'to some extent', the main factor affecting the effectiveness of the PTD's provisions on insolvency protection was the difference between insolvency protection systems in the EU/EEA Member States/countries.[107]

These statements are relevant given that a substantial percentage of retailers often sells packages from organisers located in another EU or EEA State, some even from organisers located outside the EU/EEA.[108,109, 110]

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[103] Annex 13, Evaluation, EQ 3

[104] Targeted survey for consumer organisation, Q15 and Targeted survey for NCAs (insolvency protection), Q16: 58% (7 of 12) consumer organisations agree and 33% (4 of 12) tend to agree while 46% (6 of 13) NCAs agree and 23% (3 of 13) tend to agree,

[105] Public consultation Q17: In total, 28% (125 of 453) of respondents, including 59% of the public authorities (13 of 22) and 86% of consumer organisations (18 of 21).

[106] Similarly, in the targeted survey, a significant share of consumer organisations indicated that travellers are not sufficiently protected in some Member States. NCAs (insolvency) authorities indicated that travellers face problems because of the different insolvency protection rules applying in different Member States. Targeted survey for consumer organisation, Q15: 58% (7 of 12) consumer organisations and targeted survey for NCAs (insolvency protection), Q16: 58% (7 out of 12)

[107] Targeted survey for NCAs (insolvency protection), Q17, 93%, 12 out of 13

[108] Public consultation Q60: 40% of retailers (33 of 83) indicated to often sell packages from organisers from other countries in the EU/EEA, 41% (34 of 83) to do so rarely and 19% (16 of 83) never to sell such packages. Q61: 16% of retailers (13 of 83) indicated to often sell packages from organisers from outside the EU/EEA, 40% (48 of 83) to do so rarely and 30% (36 of 83) never to sell such packages. It is important to note that companies often indicated several activities from the list that included retailer, organiser, carrier etc. More information on the activities of the responding companies in Annex 2. Section 1 and Annex 4 Section 2.

[109] While no exact data are available concerning the number of such cross-border packages, the available information indicates that around 20,000 cross-border complaints were lodged with the European Consumer Centres in 2022. Most travellers do not lodge complaints, so that the overall number of cross-border packages is likely substantially higher. The European Consumer Centres Network (ECC-Net) Anniversary Report 2005-2020, p. 19, indicates that during the timespan of their existence, on average 17% of the complaints received by ECC-Net concerned package travel. https://commission.europa.eu/system/files/2021-01/ecc_net_anniversary_report_2020-_15_years_of_ecc_net.pdf; The ECC-Net report "ECC-Net in 2022", https://www.eccnet.eu/publications, indicates that 118 142 enquiries have been made during 2022. ECC-Net deals only with cross-border disputes. As on average 17% of complaints concern package travel, one could estimate that the number of cross-border PTD complaints was around 20 085 cases in 2022.

[110] It has been reported that, in case of insolvency of an organiser from another Member State, it is difficult for travellers to obtain information on insolvency proceedings and to recover prepayments (Replies by Member States Central Contact Points on insolvency protection to targeted question from the Commission, March 2023)
Some national authorities called for better communication between the Central Contact Points and more transparency on the securities of organisers in different Member States. Some Member States complain that their counterparts from other MS do not reply to requests or that they do not have access to registries and details on securities of organisers in other MS. In addition, one national authority dealing with insolvency protection explained that 'Member States are generally unaware of the national law of other Member States or of the insolvency proceedings for the use of the security in other Member States.' Therefore, cooperation between national central contact points is essential to ensure the efficiency of the PTD, especially with increasing cross-border activities. Moreover, a national central contact point signalled that they

*Insolvency protection in times of crisis, insurability of risks, coverage of refund claims and vouchers where a package is cancelled before an organiser becomes insolvent*

The PTD faced particular challenges in certain *crisis situations*, such as the Thomas Cook bankruptcy and the COVID-19 pandemic in relation to refunds for cancelled trips as well as the solidity and scope of insolvency protection.

*The bankruptcy of Thomas Cook* in 2019,[111] was the only bankruptcy of a large organiser with a cross-border impact in recent years.[112] In this context, for example, the German insolvency protection system proved to be insufficient. While around 140 000 travellers were repatriated, there was only limited insurance cover for refunds to travellers because of a liability cap for insurance companies in the German transposition. The subsequent improvement of the German system involved the creation of a travel guarantee fund organised as a private company under State supervision.[113] It appears that, after Thomas Cook, Member States and EEA did not experience bankruptcies of large organisers[114].

*The COVID-19 pandemic* triggered numerous travel bans, travel warnings and restrictions at borders that led to a vast number of cancellations and many people being unable to travel. Several Member States devised aid schemes to support national guarantee/insolvency protection funds for package

had no enforcement rights if an organiser established outside the EU/EEA does not want to use the guarantee system available in a Member State. However, such issues depend less on the text of the PTD (see Annex 13, Evaluation, EQ 3).

[111] Thomas Cook plc. was one of the world's leading leisure travel groups, with sales of £9.6 billion and around 19 million clients in 2018.

[112] The *German* subsidiaries of Thomas Cook left around 140 000 travellers stranded abroad. These were repatriated with the help of the insolvency protection provider. The insolvency protection, however, was insufficient to fully cover the refunds of travellers not yet at their destination, because of a liability cap for insurance companies covering this risk in the previous German transposition. The federal government committed to compensate all affected travellers for the difference between their pre-payments and the amount of refunds received from the insurance company covering the insolvent Thomas Cook companies. At the same time, the German legislation was amended, and the protection of travellers improved.

In *France*, more than 53 000 travellers were affected. Around 11 000 travellers were repatriated, and more than 30 000 customers could spend their holidays with other tour operators. The refund of about 25 000 packages could start only once the insolvency procedure was finalised and all eligible refund files were completed. The total amount to be paid by guarantee funds reached around EUR 42 million in France.

The main *Belgian* insolvency protection body organised the repatriation of 11 000 passengers. In addition, competent authorities dealt with thousands of refund claims. The total amount to be paid by guarantee funds reached EUR 27 million in Belgium. EC, Meeting of the Stakeholder Expert Group to discuss the draft report on the application of the Package Travel and Linked Travel Arrangements Directive (2015/2302), 24 November 2020, https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=23419&fromExpertGroups=false.

*Spain* introduced urgent measures to alleviate the effects of the opening of insolvency proceedings against the corporate group Thomas Cook. Among other things, it created a credit line with Thomas Cook defaults, a State Financial Fund for Tourism Competitiveness, coordination policies in the field of employment between the central state and the Autonomous Regions and other support and information measures for those directly affected by the Thomas Cook crisis.

In *Greece*, the number of foreign stranded tourists was estimated at around 55 000 when Thomas Cook's insolvency was announced in 2019. An operational centre was set up by the Ministry of Tourism and repatriation was accomplished.

[113] The Fund relies on government-backed guarantees up to EUR 750 million, approved under state aid scheme in the context of the COVID-19. In addition, a state aid scheme of EUR 840 million in the form of guarantees on vouchers issued to travellers who booked package tours prior to 8 March 2020 that had to be cancelled because of COVID-19 was approved. According to estimates by the German travel industry, at the end of April 2020, advance payments totalling EUR 6 billion were made for all trips booked prior to 8 March 2020. A large part of this amount has been repaid by travel organisers or offset against new bookings. The German authorities estimated that €1.5 billion worth of secured vouchers will be issued.

[114] Targeted survey for NCAs (Insolvency), Q3: three open text responses from AT, PT, SK (12 respondents in total).

organisers[115], to cover the costs of refunds to travellers[116] and/or to support package organisers and other travel companies by temporary and targeted compensation scheme to cover all or part of their fixed costs or losses.[117]

During COVID-19, an increase of organisers' insolvencies in the period February/March 2020 - end of 2022, as compared to the period July 2018 - February/March 2020 was noticed in some Member States, but there were usually not major insolvencies, inter alia thanks to State aid.[118]

Furthermore, at least in some Member States, organisers reportedly find it difficult to obtain insolvency protection which covers prepayments and repatriation. This is due to insufficient *insurance* solutions in the market or insurance solutions offered only at prohibitive prices, in particular during a crisis.[119,120] During COVID-19, '[r]elatively few travel guarantee funds and insurance companies provide[ed] insolvency protection. It has been reported that banks were no longer providing security for organisers and that also some of the already relatively few insurance companies offering insolvency protection are pulling out of the market' (e.g., in Austria[121], Belgium[122] and France[123]).[124] In addition, '[r]isks related to pandemics are often excluded from insurance policies, in particular travel cancellation insurance.'[125]

A very relevant question that became evident in the context of the COVID-19 crisis, is whether pending *refund claims* for reimbursements from travellers, including under the form of *vouchers*, are 'covered by the insolvency protection systems provided in accordance with the PTD' as divergent practices in the Member States were revealed.[126] The Court of Justice of the European Union is still

[115] See e.g. State Aid SA.58102 (2020/N) – Poland, 287812_2191234_87_2.pdf (europa.eu); State Aid SA.57985 (2020/N) – the Netherlands, 287238_2180735_74_2.pdf (europa.eu); State Aid SA.64370 (2021/N) – The Netherlands, 296304_2314634_55_2.pdf (europa.eu); State Aid SA.63063 (2021/N) – Germany, 294812_2298237_100_2.pdf (europa.eu); State Aid SA.56856 (2020/N) – Denmark, 285305_2145144_78_2.pdf (europa.eu); State Aid SA.100368 (2021/N) – Denmark, SA_100368_B07B9E7D-0000-CA62-A6C1-E617EBC17BDE_48_1.pdf (europa.eu).

[116] E.g., State Aid SA.101306 (2021/N) – Bulgaria, SA_101306_D0F7727E-0000-C49E-A61B-14A989909127_54_1.pdf (europa.eu), State Aid SA.59639 (2021/N) – Sweden, 291810_2244846_57_2.pdf (europa.eu). See also Annex 13, Evaluation, Appendix IX. Package travel during the COVID-19 pandemic.

[117] E.g., State Aid SA.57932 (2020/N) – Denmark, 287013_2179779_79_2.pdf (europa.eu), State Aid SA.57352 (2020/N) – Denmark, 286250_2162043_37_2.pdf (europa.eu), State Aid SA.57423 (2020/N) – Latvia, 286194_2160641_28_2.pdf (europa.eu). See also annex 7, Evaluation, Annex IX. Package travel during the COVID-19 pandemic.

[118] E.g., number of insolvencies before Covid-19 vs insolvencies from February/March 2020 to the end of 2022: Poland: 12 vs 18; Lithuania: 1 vs 6; Finland: 3 vs 9, Belgium: 14 vs 35; Cyprus: no insolvency before the COVID-19 until the end of 2022; Czech Republic: 4 vs 27; Denmark: 7 vs 18; Estonia: 0 vs 5; Latvia: 1 vs 3; Sweden 2 vs 46; Iceland: 2 vs 7. Not all Member States offered data on the number of insolvencies. See also Annex 13, Evaluation, Appendix IX. Package travel during the COVID-19 pandemic.

[119] Targeted survey for NCA (Insolvency), replies to Q6, indicating that the prices of insurance-based solutions have increased.

[120] Section 3 of the Minutes of the Meeting of the Central Contact Points of 10 November 2022, https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=45937&fromExpertGroups=true

[121] State aid SA.60521 - Austria, https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_60521

[122] See minutes of the 4th meeting of the PTD stakeholder expert group (24.11.2020), Register of Commission expert groups and other similar entities (europa.eu)

[123] State Aid SA.104022 (2022/N) – France, SA_104022_404A4C87-0000-C6F0-AC80-40B28799B06E_68_1.pdf (europa.eu)

[124] PTD Application Report, p.11, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN

[125] See e.g., the analysis of the Belgian consumer organisation Test Achats published on 22.10.2020, https://www.test-achats.be/argent/assurances-assistance-voyage/dossier/coronavirus.

[126] The current practice in the Member States varies. Six Member States replying in the consultation process already cover vouchers and/or refund claims by insolvency protection up to a certain extent, while six do not. Targeted survey

to rule on this question.[127] Consumer organisations and some Member States suggest that the PTD should clarify that vouchers and refund claims are covered by insolvency protection.[128] Also businesses are largely in favour of such clarification.[129]

*Insurance policies for travellers*

Insurance policies available to travellers cannot tackle the different aspects of problem 2. As stated under problem 1, such insurance policies usually cover only certain personal risks. Furthermore, there is no need or demand for an insurance policy to be taken out by travellers which would duplicate the legal guarantees under the PTD. In addition, the Commission is not aware of insurance policies being offered to travellers to cover any gaps in the insolvency protection which organisers are obliged to arrange for the benefit of travellers.

*Conclusion*

Therefore, while the feedback from stakeholders is often not very specific, it is still clear that the current degree of harmonisation has left scope for different implementation in the Member States, leading to certain variations in the level of consumer protection and, consequently, in the costs for businesses, including in relation to the question of whether vouchers and refund claims are to be covered by insolvency protection (regulatory failure). In addition, there is evidence that there are limits for the effectiveness of insolvency protection where it is based exclusively on solutions offered by the insurance market (market failure), in particular, in a major crisis.

### *2.1.3. Problem 3: Difficulties in implementing the Directive*

Stakeholders faced difficulties in the implementation of the PTD in relation to the interpretation and enforcement of concepts of 'click-through package' and LTA, in determining whether the cancellation of a package travel contract was justified by unavoidable and extraordinary circumstances, which became apparent during COVID-19, as well as in the implementation of certain information obligations.

These problems can, to some extent, be explained by practical difficulties, but are, to a large extent, linked to the content of certain provisions (regulatory failure).

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for national insolvency authorities Q8: 12 responses from AT, CY, DE, DK, EE, FI, HU, HR, LV, PT, SE, and IS. 6 authorities (5 MS and Iceland) replied that the current rules on insolvency protection in place in their country cover vouchers and/or refund claims (for cancelled packages) to a certain extent. In general, this protection has ensued in the context of the COVID-19. In addition, Ireland confirmed during a meeting with the EC that vouchers and refund claims were covered by the rules on insolvency protection. Only Denmark, Estonia and Ireland seem to fully cover vouchers.

[127] The interpretation of Article17(1) in this respect is raised in two pending requests for preliminary rulings from Austria and Belgium in cases C-771/22 HDI Global and C-45/23 MS Amlin Insurance

[128] Public consultation Q19: 77% of public authorities (17 of 22), 86% of consumer organisations (18 of 21),52% of EU citizens (35 of 67), and 14% of companies and business associations (49 of 359) indicated that refund rights against an organiser should be protected in case of insolvency. As for vouchers: 73% of public authorities (16 of 22), 95% of consumer organisations (20 of 21), 45% of EU citizens (30 of 67), and 18% of companies and business associations (65 of 359) indicated that these should be protected in case of insolvency. According to most business respondents (284 of 359, 79%), the existing insolvency protection is sufficient, an extension would cause excessive costs.

[129] Opinion of the Fit for future platform on the PTD, Suggestion 4: Clarification of uncertainties regarding insolvency protection, 'further uncertainties include for example insolvency protection in case of re-bookings, respectively of vouchers and a possible difference between a voucher for a package as opposed to a voucher just stating an amount of money.' https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en

The problems are common to all Member States as the concepts come directly from the Directive. For example, during the consultation process, 50% (6 of 12) of national authorities indicated it was 'to a very great extent' difficult to implement and enforce insolvency protection for 'click-through packages'.[130] On LTAs, most stakeholders indicated that the introduction of the concept of LTA did not improve the protection of travellers.[131] Finally, 69% (18 of 26) of the national authorities indicated that the organisers and travellers did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' and whether it significantly affected the package in question. [132]

Given that the legal text is unclear or there are gaps in the legislation, the identified problems could not be addressed exclusively through stronger enforcement against non-compliant traders.

#### 2.1.3.1. Concepts of 'click-through package' and Linked Travel Arrangement (LTA)

The evaluation showed that the PTD lacks effectiveness in relation to evolving market trends, e.g., online bookings of combinations of travel services.[133] The PTD meant to address this, inter alia, through the new concepts of 'click-through package'[134] and LTA. Still, both concepts raised implementation and enforcement challenges, reducing the possibility of travellers to make informed choices and benefit from the protection under the PTD.[135] Stakeholders outlined that it was difficult 'to prove whether a package, an LTA or none of them was concluded'.[136,137,138]

In June 2019, the Commission issued a first report, on the provisions of the Directive applying to online bookings made at different points of sale. The report suggested that "the offer of 'click-through packages' appears to be a rather rare phenomenon' indicating that there was not a clear 'picture of the prevalence of 'click-through packages' on the market."[139] Further, according to some stakeholders, the concept of 'click-through package' has no or very limited practical value, is difficult to apply in practice,[140] or changes should be made.[141] Most national authorities declared that it was

[130] Targeted survey for NCAs (enforcement and regulatory), Q17.
[131] Public consultation (Q26): 67% (276 out of 397) respondents declared that LTA type (a) did not improve the protection for travellers. In particular, 95% of consumer organisations (19 of 20), 81% of public authorities (17 of 21), 61% of companies (140 of 228), and 78% of business associations (38 of 49).
[132] Targeted survey for NCAs (enforcement and regulatory), Q1
[133] Public consultation Q3: According to 55% (257 of 468) of respondents the PTD is not well adapted to market trends.
[134] According to Article 3(2)(b)(v) a '*click-through package*' package is formed where specific personal data (name, e-mail and payment details of the traveller) are transferred from one trader to another trader in connection with the booking of different travel services for the same trip or holiday and where the second contract is concluded within 24 hours of the first contract. Travellers must receive a specific standard information form.
[135] Annex 13, Evaluation, EQ1
[136] PTD Application Report, p. 6. COM(2021) 90 final.
[137] Annex 13, Evaluation, EQ 1
[138] Public consultation Q26a: According to 70% of respondents (191 of 273) 'the distinction of whether the services were selected jointly (package) or separately (LTA) is difficult to verify for travellers and enforcement authorities'.
[139] Report from the Commission to the European Parliament and the Council on the provisions of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements applying to online bookings made at different points of sale, COM(2019)270 final, 21.6.2019, accompanied by the Staff Working Document SWD(2019) 270 final, p.4, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2019:0270:FIN:EN:PDF
[140] Public Consultation Q7: 37% (168 of 454). Looking at specific stakeholders: 19% of consumer organisations (4 of 21), 37% of companies (101 of 274), and 47% of business associations (21 of 45).
[141] Public Consultation Q7: 27% (122 of 454). Looking at specific stakeholders: 33% of consumer organisations (7 of 21), 24% of companies (66 of 274), and 40% of business associations (18 of 45).

difficult to implement and enforce insolvency protection for these packages[142] and that the concept did not contribute to achieving the general objectives of the PTD.[143]

The application of the concept of *LTA*[144] 'has arguably raised the highest number of questions' with 'consumer and business stakeholders consider[ing] the LTA definition overly complex and difficult to apply in practice.'[145]

According to consumer organisations, 'concerns have also been raised that, with the exception of insolvency protection and certain pre-contractual information requirements, the PTD does not provide for the liability of traders facilitating an LTA for the performance of the relevant services.'[146] Furthermore, the evidence collected indicates that the definition of LTA types (a) and (b)[147] did not contribute to achieving its general objectives.[148]

The evaluation identified interpretational and enforcement difficulties that could be grouped in two main categories: lack of clarity in key elements of the definition of LTA types (a) and (b), and unclear

[142] Targeted survey for NCAs (insolvency) Q17: 50% (6 of 12) replied 'to a very great extent'.
[143] Targeted survey for NCAs (insolvency) Q15: 33% (4 of 12) replied 'not at all'.
[144] Under Article 3(5) PTD, LTAs are those where 'at least two different types of travel services purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers' Depending on how the services are booked, there can be two types of LTAs: type (a) where a trader facilitates the separate selection and separate payment of each travel service by travellers on the occasion of a single visit or contact with his point of sale; type (b) where a trader facilitates in a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.
[145] PTD Application Report, COM(2021) 90 final, p. 5. See also: BEUC (2021) *"The Package Travel Directive: BEUC's Position on how to regain consumers' trust in the tourism sector"*: 'it is very difficult, if not impossible, for consumers and enforcement authorities to prove whether a package or an LTA was concluded'. Available online at: https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf. See also Annex 13, Evaluation, EQ1
[146] PTD Application Report, p. 6
[147] Under Article 3(5)(a) and (b), LTAs are those where 'at least two different types of travel services purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers.' Depending on how the services are booked, there can be two types of LTAs*: type (a)* where a trader facilitates the separate selection and separate payment of each travel service by travellers on the occasion of a single visit or contact with his point of sale; *type (b)* where a trader facilitates in a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service. See also Annex 12.
[148] Public consultation (Q26): 67% (276 out of 397) respondents declared that LTA type (a) did not improve the protection for travellers. In particular, 95% of consumer organisations (19 of 20), 81% of public authorities (17 of 21), 61% of companies (140 of 228), and 78% of business associations (38 of 49). Also, targeted surveys: for NCAs (regulatory and enforcement) Q21 and Q15, for Consumer organisations Q33 and for Business associations Q47: presentation of the replies in *Annex 2 Stakeholder consultation (Synopsis report)* to the Impact Assessment

delimitation between packages and LTAs.[149,150] Travellers find it difficult to understand what kind of protection they can expect and whether they will benefit from insolvency protection.[151]

A consequence of the uncertain boundaries between LTAs and packages is the low awareness of travellers regarding the distinction between these concepts and the associated rights, preventing them from making informed choices and benefiting from their rights. These findings suggest that, although, intellectually, a distinction can be made between a joint and a separate selection of travel services at one point of sale, such distinction can be difficult in practice and is difficult to verify for travellers and enforcement bodies, giving rise to a grey area.

In some cases, the complexity and the uncertainties related to LTAs has led to abuse by traders.[152] It also appears that some traders changed their business models/booking processes to avoid being considered as package organisers. As a result, travellers were deprived of the guarantees for packages, including in relation to liability for the combination of travel services and effective insolvency protection.[153,154]

In addition, according to some stakeholders, the provisions on LTAs type (b) are not applied in practice.[155]

The fact that there are hardly any figures on LTAs points to the potential core issue affecting LTAs, namely the difficulties for stakeholders in discerning, in practice, whether an LTA has been created. This makes it difficult to collect data on LTAs and, most likely, to rely on rights related to LTAs.[156] Indeed, the difficult distinction between certain packages and certain LTAs, along with the fact that most obligations for traders (information requirements and, where relevant, insolvency protection requirements) kick in only once a first transaction has been completed, make it difficult to enforce these provisions.

In light of the above, the excessive complexity and lack of clarity of the rules on LTAs, combined with actions by traders and difficulties in enforcing these rules, hampered the proper functioning of the package travel market and resulted in a lower level of consumer protection than intended by the reform of the PTD in 2015. At the same time, the rules on click-through packages have largely been

[149] The distinction between certain packages and certain LTAs can be difficult. See flowchart "Package travel or not?" at https://commission.europa.eu/document/653055bf-a1ae-4280-a26d-bf7142fccfa9_en.
See also PTD Application Report, p. 5. A travel agent who books a flight and a hotel for a customer and issues one invoice for both services sells a package. When the same services were not selected jointly, the travel agent that books them one after the other and does not charge a total price facilitates an LTA.
[150] For further explanations on these difficulties, see Annex 12 Linked Travel Arrangements.
[151] Public consultation Q28a: in total 70% (200 of 284) of respondents, in particular 57% (35 of 42) of business associations, 39% (94 of 145) of companies, 68% (18 of 19) from consumer organisations, 51% (29 of 41) of EU citizens, 100% (3 of 3) NGOs, 50% (6 of 12) of Other, 42% (13 of 19) of public authorities indicated this.
[152] BEUC, Factsheet 'How a revised Package Travel Directive can regain consumers' confidence in the tourism industry', BEUC-X-2022-003 of January 2022 at https://www.beuc.eu/sites/default/files/publications/beuc-x-2022-003_how_a_revised_package_travel_directive_can_regain_consumers_confidence_in_the_tourism_industry.pdf
[153] Insofar as traders considered they were offering LTAs, there is, in principle, insolvency protection under Article 19 PTD. However, in light of uncertainties regarding LTAs, such protection will often not be effective.
[154] Public consultation Q28a regarding LTA type b): 79% (15 of 19) of consumer organisations stated that traders may use LTAs to avoid the liability of package organisers. Similar trend in replies to Q26a regarding LTA type a): According to 71% (15 of 21) of consumer organisations, traders may use LTAs to avoid liability of package organisers.
[155] Public consultation Q28: in total 70% (276 of 396) of respondents, in particular 95% (19 of 20) of consumer organisations, 90% (19 of 21) of public authorities, 71% of business associations (35 of 49), 68% (41 of 60) of EU citizens
[156] Annex 13, Evaluation, EQ1

ineffective. These problems are independent of the problems that manifested themselves during COVID-19.

#### 2.1.3.2. Cancellation rights due to unavoidable and extraordinary circumstances

During the Covid-19 pandemic, different interpretations of travellers' right to cancel the contract in the event of 'unavoidable and extraordinary circumstances'[157,158] emerged, triggering disputes between travellers[159] and organisers.[160]

The main interpretation issues arose in relation to the place where the unavoidable and extraordinary circumstances occur;[161] the different legal regimes applicable to organisers under the PTD and transport service providers under the specific legislation;[162] the variety of travel warnings/advice by the Member States during the COVID-19.[163]

The PTD itself is silent in respect of the legal value of travel warning or advice issued by governments. In practice, 'travel warnings' are a key aspect for justifying the cancellation of a package travel contract due to unavoidable and extraordinary circumstances. Travellers and

[157] Under Article 3(12), 'unavoidable and extraordinary circumstances' means a situation beyond the control of the party who invokes such a situation and the consequences of which could not have been avoided even if all reasonable measures had been taken;' Recital 31 offers several non-exhaustive examples of 'unavoidable and extraordinary circumstances'

[158] As shown in section 2.1.1. on Problem 1, during the COVID-19 pandemic, travellers faced major difficulties in recovering prepayments within 14 days for packages cancelled due to unavoidable and extraordinary circumstances. The interpretation issues related to the right of travellers to terminate the contract under Article 12(2) contributed to the difficulties faced by travellers.

[159] Targeted survey for consumer organisations, Q6: when asked whether, on the justification for terminating a package travel contract *since* COVID-19 pandemic, they observed the scenario in which 'the parties did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' or whether it significantly affected the package in question', 10 of 12 (83%) respondents pointed out that the scenario was observed 'to a large extent'.

[160] Targeted survey for business associations, Q12: when asked whether, on the justification for terminating a package travel contract *since* COVID-19 pandemic, they observed the scenario in which 'the parties did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' or whether it significantly affected the package in question', 12 of 20 (55%) respondents replied that this was the case 'to a large extent'.

[161] Article 12(2) provides that 'the traveller shall have the right to terminate the package travel contract before the start of the package without paying any termination fee in the event of unavoidable and extraordinary circumstances occurring **at the place of destination or its immediate vicinity and significantly affecting the performance of the package**'. It must be noted that during the COVID-19, the restrictions on movement or quarantine requirements at the place of departure were rendering, de facto, impossible for a traveller to start the package travel contract (for instance, travellers may have not been able to reach the airport in case it was located in another region and the movement among regions was limited.

[162] Contrary to the PTD, passengers who cancel a flight or other transport service themselves do not have a right to be refunded under the EU passenger rights Regulations, even in case of extraordinary circumstances. Therefore, if a traveller cancelled a package travel contract with a flight component, the organiser must reimburse the traveller in accordance with the PTD. Nevertheless, the organiser has no right under EU law to claim a refund from the airline if the flight was operated.

[163] Public consultation, Section II. Additional questions for travellers Q35: 31% (18 of 58) of EU citizens indicated that the organiser/retailer accepted the cancellation only where there was a travel warning advising against the trip; 38% (22 of 58) indicated that it was difficult to contact/communicate with the organiser/retailer as the organiser/retailer did not reply to e-mails or phone calls or the office was closed; 52% (30 of 58) pointed to the great disparity of the official travel advice and health-related decisions and their rapid change in my country, the destination country or transit countries

businesses consider that the absence of rules on 'travel warnings' hinders the effectiveness of the definition of 'unavoidable and extraordinary circumstances'.[164]

Consumer organisations called for more clarity on the appropriate time for cancellation of the contract due to 'unavoidable and extraordinary circumstances' as well as on the relevance, evidence, and legal value of official travel warnings.[165]

Most national competent authorities called for clarifications on the rules on trip cancellations.[166] Several questions have been referred to the Court of Justice of the European Union in relation to the cancellation right under Article 12(2).[167]

2.1.3.3. Issues with information obligations

The evaluation[168] points to limited compliance with the information obligations of traders where they act as organisers or retailers of a package or as facilitators of an LTA. This is likely to be linked to issues with the understanding of certain concepts of the PTD, including the definition of LTAs and the borderline between packages and LTAs.[169]

Stakeholder positions seem to indicate that there is a certain degree of confusion about the information requirements that traders (organisers, retailers, facilitators of LTAs) must provide before a traveller is bound by a contract. The evaluation also showed an enforcement problem regarding the information obligations of traders. In addition, travellers do not understand the information in the current forms on LTAs and it is difficult for organisers to determine the correct form.[170] Also this particular aspect is closely linked to the structural issues regarding LTAs and contributed to hampering the proper functioning of the package travel market and resulted in a lower level of consumer protection,[171] and thus to the PTD not achieving its main objectives.[172]

In addition, the evaluation highlighted that travellers may not always understand the exact role of different traders (organisers, retailers, and service providers) and, consequently, may not properly identify the trader responsible for the performance of the contract, the refund of payments or for compensation.[173,174] This problem became very obvious during the COVID-19 crisis, but reflects a general issue.

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[164] Annex 13, Evaluation, EQ5,
[165] Targeted survey for consumer organisations, free text replies to Q7, – N = 10.
[166] See targeted survey for NCAs (regulatory and enforcement), free text replies to Q2.
[167] For the case references, see Annex 13, Evaluation, Appendix IX.Package travel during the Covid-19 pandemic
[168] Annex 13, Evaluation, EQ1
[169] See section 2.1.3.1. and Annex 13, Evaluation, EQ 1
[170] Annex 13, Evaluation, EQ 1, sub-section 4.1.1.2. *Information requirements*
[171] Public consultation Q3: According to 55% of (257 of 468) respondents the PTD is not well adapted to market trends.
[172] Annex 13, Evaluation, EQ1, sub-section *Linked travel arrangements*
[173] Annex 13, Evaluation, EQ 1, sub-section on Organisers' liability for the performance of the contract and EQ5, sub-section. Problems with the reimbursement of pre-payments alongside the different actors in the value chain (B2B rights), (a) Referral of travellers from organisers to retailers and vice-versa
[174] Furthermore, the Fit for future Platform Opinion highlights that '[i]n light of the COVID-19 crisis, it became clear that there is a notable lack of transparency regarding the role of different parties. When signing a contract, it has been reported that travellers are not always fully aware about who are the organiser, retailer and service provider in relation to a package. This problem even increases when the involved travel companies are similar in name or make part of larger travel agencies with often non-transparent corporate structures. Consumers risk being confused and sent back and forth between the companies, especially regarding refunds for cancelled trips.'

The Opinion of the Fit for future platform, in its Suggestion 5: Clarification 'other tourist services', states that '[i]n practice, there is a lot of uncertainty when it comes to defining a particular service as "other tourist service". This particularly applies to single travel service providers who offer *another tourist service* and become therefore organisers within the meaning of the PTD, without being aware.'

However, the PTD explains and limits the notion of 'other tourist service',[175] thus avoiding that combining accommodation and other tourist services lead to a disproportionate application of the PTD.[176] Neither the opinion of the Fit for future platform nor other consultation exercises demonstrated the need for further clarifications nor provided solutions. The different views on whether more or fewer combinations should be exempted from the definition of package do not indicate that the current provision is not effective for the pursuit of the Directive's objectives.[177] Furthermore, the limited evidence for the alleged problems or the absence of proposed solutions made it difficult to identify this as a problem and further take it up in the impact assessment.

### 2.2. What are the problem drivers?

The three main problems identified above, have several, sometimes overlapping, drivers.

#### *2.2.1. Drivers of Problem 1 – Travellers face difficulties in recovering prepayments for cancelled packages, in particular in the event of a major crisis*

The main driver for Problem 1 is that the business model implemented by service providers and organisers of packages is based on prepayments from travellers.[178] In the event of cancellations, prepayments need to be refunded. In this context and given the structure of the package travel industry, with a vast majority of businesses being SMEs, problems appear, in particular, in case of massive disruptions of the travel sector, as witnessed during COVID-19.

The extent of prepayments depends on different factors, including the share of transport in the package, scheduled flights as opposed to chartered flights,[179] traditional tour operator packages as opposed to dynamic packages, but, to some extent, also the Member States concerned. By using travellers' prepayments, certain organisers can purchase large allotments of services in advance, which allows them to keep package prices at a reasonable level.[180] Service providers, especially in the air transport sector, require full payment of the tickets upon booking, allowing them to optimise transport service operations economically and environmentally. Package organisers must take into account this business practice of carriers. Some organisers plan their packages well in advance and book seats in transport means and hotel rooms in bulk to obtain better prices and be in a position to offer advantageous packages to their customers. These advance bookings with travel service suppliers are usually made through prepayments and/or guaranteed by cancellation penalties. Organisers

Suggestion 1: Better information on the identity of the contractual partners and on contact details and better enforcement of rules, https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en

[175] In Article 3(1)(c), Article 3(2)(2) and recitals 17 and 18.

[176] Tourist services that are intrinsically part of accommodation (e.g., access to on-site facilities and transfers to/from an airport or railway station), other tourist services (e.g., rental of sports equipment, spa treatments or courses) that do not represent 25% or more of the value of a package or services that travellers add while being at the accommodation do not lead to the application of the PTD. Furthermore, the PTD provides many examples.

[177] See also *Annex 2 Stakeholder consultation (Synopsis report)*

[178] PTD Application Report, p. 12.

[179] Reply by a business organisation representing organisers to an ad hoc targeted consultation in December 2022 by the Commission (see Annex 2).

[180] PTD Application Report, p. 12.

finance such bookings thanks to prepayments from travellers (around 30% of the package price several months before the start of the package, while the remainder often must be paid up to a month prior to the start of the package). This system allows package organisers to limit the need to advance the cost of bookings through their own funds. However, if many travellers cancel packages due to unavoidable and extraordinary circumstances, as was the case during the COVID-19 pandemic, organisers must refund all prepayments disbursed to third parties and this within 14 days.[181] This can put at risk the liquidity of organisers.

Lack of liquidity of organisers when faced with many concurrent requests for a refund could become acute and lead to their bankruptcy if they do not receive (timely) refunds from service providers.[182] As experienced during the pandemic, many organisers did not have sufficient liquidity to reimburse travellers' prepayments within the mandatory period.[183,184]

The PTD does not regulate the business-to-business (B2B) effects of the termination of package travel contracts. There is only a very general provision on redress in Article 22. Therefore, in relations with service providers, organisers rely on contractual obligations and general contract law, which does not seem to have given rise to particular problems at normal time. Still, under contract law, organisers can only claim money back for services (e.g., flights) that have not been performed. Where a package is cancelled due to unavoidable and extraordinary circumstances, but the relevant service may still be performed, organisers would not have a right to get reimbursed, while still having to reimburse travellers. This happened during certain phases of the pandemic, partially due to differences in cancellation rights under the PTD as compared to the APRR.[185] Stakeholders pointed out that one of the major drivers behind organisers' lack of liquidity and difficulty to refund consumers, was the lack of precise rules on B2B refunds. This resulted in delays and disputes.[186,187,188,189]

Recovering prepayments from airlines proved particularly difficult. Businesses 'explained that refunds in normal times go through the global distribution systems (GDSs) that ensure automatic

[181] Annex 13, Evaluation, EQ5 and Appendix IX. Package travel during the COVID-19 pandemic of the Evaluation
[182] The lack of rules on B2B refund was mentioned by stakeholders as one of the key drivers for the impossibility to refund travellers during the Covid-19 pandemic, PTD Workshop 1 with businesses and consumer representatives, October 2022.
[183] Annex 13, Evaluation, EQ5 and Appendix IX. Package travel during the COVID-19 pandemic of the Evaluation
[184] Service providers also faced similar liquidity issues during the pandemic.
[185] Annex 13, Evaluation, EQ5, Appendix IX. Package travel during the COVID-19 pandemic
[186] Targeted business survey, Q15, N = 22. During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers, but have, in the meantime, received refunds from service providers: 45% replied to a large extent, 14% to a moderate extent, 14% to a small extent. During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers and have still not received refunds from service providers: 19% to a large extent, 10% to a moderate extent, 33% to a small extent.
[187] Interview with a German business association indicated that some providers had to wait a long time before the money came back for hotels and airlines so there was a gap between the time the tourist paid and the service partners who has to pay through the customer.
[188] Targeted survey for NCAs (regulatory and enforcement), Q4, N = 27: During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers, but have, in the meantime, received refunds from service providers: 23% to a large extent, 23% to a moderate extent, 8% to a small extent. During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers and have still not received refunds from service providers. 16% to a large extent, 8% to a moderate extent, 20% to a small extent.
[189] PTD Workshop 1 organised for the supporting study with businesses and consumer representatives, October 2022

refunds. However, during the pandemic, airlines chose to go through a manual process, allowing them to hold on to the refunds for 8-9 months.' [190]

The dysfunctionalities in the B2B relationships proved to have a negative impact on travellers, triggering two main problems regarding refunds of pre-payments: (a) referral of travellers from organisers to retailers and vice-versa, making it very difficult for travellers to obtain their rights and (b) delay in reimbursing travellers due to the difficulties that organisers faced in recovering the pre-payments from service providers, e.g., airlines and hotels.

There are currently no specific rules on the use of vouchers in the PTD. During the pandemic organisers often imposed vouchers/credit notes on travellers instead of a refund upon cancellation of a package due to unavoidable and extraordinary circumstances and did not make it clear that travellers were not obliged to accept vouchers.[191] At the same time, the rights of travellers regarding vouchers are unclear.[192]

In the 2020 Recommendation on vouchers,[193] the Commission set out principles in relation to make voluntary vouchers more attractive for travellers.[194]

Most of the Member States which introduced systems of *voluntary* vouchers did not have data on the share of travellers who accepted vouchers following cancellations due to COVID-19.[195,196] Given the non-binding nature of recommendations, package organisers continued to issue vouchers as they saw fit or in line with national rules breaching the PTD and the Recommendation, with the consequence that travellers in different EU countries were treated differently.[197,198]

Consumer organisations emphasise that travellers should not be deprived of their right to a monetary refund, as the choice of whether to accept a voucher or to receive a cash refund ultimately belongs to

[190] Meeting with a business travel organisation during the consultation process.
[191] Public consultation, Section III. Additional questions for consumer organisations and public authorities, Q41: 18 of 21 (81%) of consumer organisations and 11 of 19 (58%) public authorities. And see BEUC position papers submitted as feedback to the Inception Impact Assessment (IIA), and to the public consultation that describes issues around imposition of vouchers.
[192] PTD Workshop 1 organised for the supporting study with businesses and consumer representatives, October 2022
[193] Commission Recommendation 2020/648 of 13.5.2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, C/2020/3125, OJ L 151, 14.5.2020, p. 10–16
[194] First, travellers should have the choice to accept vouchers or to claim cash refund. If they accept a voucher, they should be able to request a full refund if they have not used it by the end of its validity. In addition, such vouchers should be covered in the event of insolvency of the airline or travel organiser. Member States should ensure that such (existing) insolvency protection is sufficiently robust to guarantee those vouchers.
[195] Targeted survey NCAs (regulatory and enforcement) Q7, N = 18: Less than 10%: 2; Between 10% and 30%: 3; Between 30% and 50%: 1; Between 50% and 75%: 2; More than 75%: 0; Don't know: 10.
[196] Targeted Business survey Q17, N = 20:4 out of the 20 respondents indicated that the share of travellers who accepted vouchers was between 30% and 50%. The rest selected the following: Less than 10%: 0; Between 10% and 30%: 2; Between 50% and 75%: 3; More than 75%: 1; Don't know: 10. Targeted survey for consumer organisations Q12, N = 8: Whereas 2 out of 8 consumers organisation replied that the share was between 10% and 30%. Less than 10%: 1; Between 30% and 50%: 1; Between 50% and 75%: 0; More than 75%: 1; Don't know: 3.
[197] European Court of Auditors, (2021), Air passenger rights during the COVID-19 pandemic […].
[198] In a December 2020 report, BEUC mentions that '[h]owever, although this Recommendation and these proceedings have been welcomed by BEUC, their concrete effects are limited.' BEUC (2020), COVID-19 and EU Travellers' Rights, Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers', p. 1, https://www.beuc.eu/position-papers/covid-19-and-eu-travellers-rights-evaluation-member-states-implementation-eu

consumers.[199] Nevertheless, in reality, travellers often did not have this choice. On the other hand, an industry stakeholder explained that often travel agents had no choice but to impose vouchers on their customers, even if not the best solution, as they were the only short-term alternative solution to help traders to avoid bankruptcy.[200] Furthermore, travel industry representatives outlined the problem rising from the divergent regime applicable to organisers under the PTD, who must reimburse travellers in money, and that applicable to some service providers, such as hotels, allowed to issue vouchers during the pandemic.[201]

Finally, academic research suggests that vouchers should benefit travellers and tour organisers alike, and this cannot be the case in the framework of mandatory vouchers.[202]

#### *2.2.2. Drivers of Problem 2 – Prepayments made by travellers are not sufficiently protected against insolvency of the organiser*

The evaluation confirmed that there are differences between insolvency protection systems in the Member States as the PTD leaves it to Member States to determine the details of their systems.[203]

Moreover, COVID-19 brought to light divergent practices in the Member States as regards the coverage by insolvency protection of vouchers and open refunds claims for trips cancelled before an organiser becomes insolvent.[204] The Court of Justice of the European Union is still to rule on the question whether the wording of Article 17(1) regulates such coverage.[205] Consumer organisations and some Member States suggest that the PTD should clarify that vouchers and refund claims are covered by insolvency protection. Also, businesses are largely in favour of such clarification.[206]

[199] BEUC, (2021), The Package Travel Directive: BEUC's Position on how to regain consumers' trust in the tourism sector, p.17.
[200] ECTAA, (2020), COVID-19 and Tourism in Europe: Which Consequences for Travel Agencies and Tour Operators […], p. 7.
[201] European Commission, minutes of the meeting of the Stakeholder Expert Group to support the application of the Package Travel and Linked Travel Arrangements Directive (2015/2302), 8 November 2022. Details on the group including minutes available at Register of Commission expert groups and other similar entities (europa.eu)
[202] Loos, M.B.M., (2021), One day I'll fly away… Voucher schemes for cancelled package travel contracts after the outbreak of the COVID-19 pandemic, Amsterdam Law School Legal Studies Research Paper, No. 2021-13.
[203] See section 2.1.2. See also Annex 13, Evaluation, EQ3
[204] The current practice in the Member States varies. Six Member States replying in the consultation process already cover vouchers and/or refund claims by insolvency protection up to a certain extent, while six do not. Targeted survey for national insolvency authorities Q8: 12 responses from AT, CY, DE, DK, EE, FI, HU, HR, LV, PT, SE, and IS. 6 authorities (5 MS and Iceland) replied that the current rules on insolvency protection in place in their country cover vouchers and/or refund claims (for cancelled packages) to a certain extent. In general, this protection has ensued in the context of the COVID-19. In addition, Ireland confirmed during a meeting with the EC that vouchers and refund claims were covered by the rules on insolvency protection. Only Denmark, Estonia and Ireland seem to fully cover vouchers.
[205] C-771/22 HDI Global and C-45/23 MS Amlin Insurance. See footnote 346
[206] See section 2.1.3., footnotes 128 and129. Also, see footnote in section 325 .

At least in some Member States, organisers reportedly find it difficult to obtain insolvency protection covering prepayments and repatriation. This is due to insufficient insurance solutions in the market or insurance solutions offered only at prohibitive prices, in particular during a crisis.[207,208]

#### *2.2.3. Drivers of Problem 3 – Difficulties in implementing the Directive*

Several drivers were identified for the difficult implementation of the Directive. Certain provisions are not sufficiently clear, contain gaps or are too complex. This leads to uneven levels of consumer protection and distortions of competition across the EU as the Directive is applied in different ways.[209] This relates, for instance, to (i) the definitions of LTAs;[210] (ii) the rules on cancellations in the case of unavoidable and extraordinary circumstances, [211] (iii) the complexity of the standard information forms[212] and (iv) the role of different parties (organisers, retailers, and service providers), including in relation to refunds, which is not always understood by travellers, although the legal provisions are clear.[213] In addition, unclear and complex provisions may have contributed to enforcement problems.[214]

The link between the problems identified in this SWD and in its support study[215], their drivers and their consequences are depicted in the problem tree in Annex 6.

### 2.3. How likely is the problem to persist?

Without additional public intervention the problems identified above will remain.

In case of a future major crisis, large-scale cancellations, the corresponding need for refunds for non-performed packages, the identified uncertainty and risks for travellers will continue. The lack of rules on vouchers and the unclear and divergent status of vouchers and refund claims in relation to insolvency protection would continue with negative effects also in the event of a smaller crisis. This, coupled with the absence of specific rules on B2B rights in relation to cancellations, would likely again affect package organisers' liquidity, inevitably leading to problems with refunds of prepayments to travellers in particular in a major crisis. Without such improvements, many travellers will continue to be cautious before booking packages far in advance.[216] It was also confirmed by

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[207] Opinion of 22 March 2022 of the Fit for future platform on the PTD https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en. See, furthermore, the Application Report, Sections 4.2.2. and 5.1.3. and Section 3 of the Minutes of the meeting of the Central Contact Points (CCPs) of 10 November 2022, available at: Register of Commission expert groups and other similar entities (europa.eu). Furthermore, this problem is mentioned in some replies to Q66 and Q67 of the public consultation as well as some policy papers received.

[208] Targeted survey for NCAs (insolvency), replies to Q6, indicating that the prices of insurance-based solutions have increased.

[209] These issues were also raised in the Fit for Future Platform Opinion,22 March 2022, https://commission.europa.eu/system/files/2023-04/Final%20opinion%202021_SBGR3_15%20Package%20travel_fup_0.pdf

[210] See section 2.1.3.1., Annex 13 Linked travel arrangements, and Annex 13, Evaluation, EQ1

[211] See section 2.1.3.2, and Annex 13, Evaluation, EQ5

[212] See section 2.1.3.3. and Annex 13, Evaluation, EQ1

[213]See section 2.1.3.3. and Annex 13, Evaluation, EQ1 and EQ5

[214] Ibidem. E.g., in relation to: lack of clarity in key elements of the definition of LTA types (a) and (b) and unclear delimitation between packages and LTAs, the implementation of information requirements, rules on liability for the performance of the contract and refunds during COVID-19.

[215] ICF Study, p. 93 and further

[216] According to the Consumer conditions scoreboard 2023, "*Mindful of recent travel disruption, 44% of respondents expressed a preference for late booking of future travel plans. Nonetheless, 46% agreed that they felt confident when*

consumer organisations that travellers received a full refund within 14 days or at least within one month only 'occasionally' before COVID-19. Moreover, travellers 'often' received a refund only after filing a complaint, and 'rarely' without this procedure even at normal times.[217] Without any changes to the current legislation, such problems related to refunds, both outside and during crises, are expected to persist.

As regards insolvency protection for package organisers, there are varied regimes of prepayment and insolvency protection mechanisms across the Member States. Some consumer organisations suggested during the evaluation that package organisers may establish their businesses in Member States with less stringent insolvency protection requirements.[218] In addition to the uncertainty of insolvency protection cover for refund claims and vouchers for cancelled packages, problems were reported with the availability of insurance solutions regarding insolvency protection and the conditions under which such insurances are offered. Hence, if no action is taken, prepayments by travellers may continue to be insufficiently protected against the organiser's insolvency at least in some Member States in the event of a major crisis, potentially leading to further financial losses for travellers. In addition, consumer organisations declared that also outside of crisis situations travellers 'often' faced problems when asking for reimbursement of payments for travel services that were not performed following the organiser's insolvency.[219] Moreover, as regards the timeliness of the refund claims, national authorities highlighted several factors that may impact the effectiveness of refunds in practice.[220]

If not amended, certain provisions will remain unclear or too complex to be applied and enforced. This concerns in particular the provisions on LTAs and their distinction from packages. In the baseline scenario, the potential for confusion and circumvention will continue. This could result in divergent levels of consumer protection and continue to limit the effectiveness of the PTD. In view of the increasing digitalisation, this issue will likely become even more prevalent, as more travellers will buy packages and/or LTAs online. Indeed, it is forecast that in the package travel segment, 78% of total revenue will be generated through online sales by 2027, compared to approx. 73% in 2023.[221]

In general, package travel will remain a very relevant market segment, slightly growing before stabilising in 2027. As a result, the scale of the problems encountered may also increase in line with this market trend if the status quo is maintained.

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*booking travel in advance*", https://commission.europa.eu/system/files/2023-05/consumer_conditions_scoreboard_2023_10052023.pdf

[217] Targeted survey for consumer organisations, Q9, N = 12: Before the COVID-19 pandemic: (1) Travellers received a full refund within 14 days or at least within one month: 33% often 42% occasionally, 8% rarely; (2) Travellers received a refund without filing a complaint 8% often 25% occasionally 42% rarely; (3) Travellers received a refund only after filing a complaint 67% often 25% occasionally 0% rarely; (4) Traveller (a) did not receive any money or (b) received it with considerable delay 47% often 33% occasionally 17% rarely

[218] Annex 13, Evaluation, EQ3. Targeted survey for consumer organisations, Q15: 33% of the respondents (4 out of 12) tend to agree with this statement, 1 tends to disagree and the remaining 58% did not know the answer.

[219] Targeted survey for consumer organisations, Q17: 58% (7 out of 12) respondents selected 'Often', and 33% (4 out of 12) 'rarely'.

[220] E.g., the speed with which the guarantor receives the necessary information to settle the claim. See also Annex 13, Evaluation

[221] Statista, Mobility Market Insights, Travel & Tourism, Package Travel Outlook, downloaded on 28 April 2023, https://www.statista.com/outlook/mmo/travel-tourism/package-holidays/eu-27?currency=EUR. The predictions have been updated in January 2023 and take into account the impact on prices and market trends of the war on Ukraine.

## 3. WHY SHOULD THE EU ACT?

### 3.1. Legal basis

The legal basis for EU action is Article 114 of the Treaty on the Functioning of the EU ('TFEU'), which provides that "*the European Parliament and the Council shall […] adopt the measures for the approximation of the provisions […] which have as their object the establishment and functioning of the Internal Market.*" Article 114 (3) also specifies that "*the Commission, in its proposals envisaged in paragraph 1 concerning […] consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts.*" In addition, Article 169(1) and Article 169(2) (a) TFEU provide that the EU must contribute to the attainment of a high level of consumer protection by adopting measures under Article 114 TFEU.

At the same time, Article 114 TFEU, can be a legal basis also for the harmonisation of business-to-business rules, like specific measures that are considered in relation to problem 1, i.e., possible business-to business rules on refunds or pre-payments.

In line with Article 26(2) TFEU, the internal market comprises an area without internal borders in which goods and services move freely and businesses have the freedom of establishment. Harmonising the rights and obligations regarding package travel is necessary to develop a real internal market in tourism and will help maintain and increase a high level of consumer protection.

### 3.2. Subsidiarity: Necessity of EU action

Package travel is cross-border, not only in the sense of travellers going abroad, but also in terms of package holidays sold to travellers by organisers based in other countries.[222]

The revision of the PTD aims to modernise the current rules and fix the problems flagged in the evaluation. The two overarching objectives of the PTD are still relevant, namely to ensure that all travellers in the EU have a high and uniform level of protection and to contribute to the proper functioning of the internal market, remain relevant. EU-level action to remove the identified problems, close gaps, clarify and simplify the rules of the current Directive will give greater confidence to travellers and traders in purchasing and selling packages, including across borders, and improve the functioning of the internal market. For instance, laying down binding rules on vouchers and common rules on prepayments will ensure more uniformity in the application of the Directive. If Member States addressed such issues in an uncoordinated manner, this would increase fragmentation in the internal market.

### 3.3. Subsidiarity: Added value of EU action

Directive (EU) 2015/2302 seeks full harmonisation of legal provisions and therefore problems in its application can only be solved at EU level. This includes areas where Member States took different approaches in terms of legislation or interpretation, such as regarding insolvency protection for vouchers and refund claims. National-level action is insufficient to enable all EU citizens to exercise the rights provided by the Directive, including in a crisis.

The proposed revision of the PTD also complies with the proportionality principle of Article 5(3) TFEU. It does not exceed what is necessary to achieve the objectives of the Treaties, as it is limited to aspects of travel law for which EU action is necessary.

[222] See footnote 104 on replies about cross-border sales in the public consultation.

## 4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

### 4.1. General objectives

The general goal of the revision of the PTD is to strengthen the level of consumer protection, at all times, including in the event of a major crisis, while improving the functioning of the Internal Market in the package travel sector. This is in line with the original objectives of the Directive, which remain relevant for the current needs. The evaluation showed that the PTD is only partially effective in meeting its objectives and the needs of consumers and traders and pointed that there's scope for improvement and simplification. Consequently, although the PTD contains comprehensive rules in relation to package travel and has brought significant benefits in terms of consumer protection and the functioning of the internal market, the identified weak points in the legislation in terms of gaps, legal uncertainty and excessive complexity in some respects require targeted action.

The tackling of these shortcomings will be important for the preparedness of a future crisis but also for the application of the Directive at normal times.

In line with these findings, the specific objectives and problems identified in the IA 2013 have to be adapted to the current context and the specific problems identified in the application of the Directive to date.

### 4.2. Specific objectives

**Specific Objective 1 ("SO1"):** Better protection of travellers' prepayments and their right to a swift refund of prepayments in the event of cancellations, including in times of a major crisis, while maintaining the liquidity of package organisers (addressing Problem 1).

**Specific Objective 2 ("SO2"):** Giving travellers greater protection against the organisers' insolvency, including in the event of a major crisis, while also ensuring a level playing field in the internal market (Problem 2).

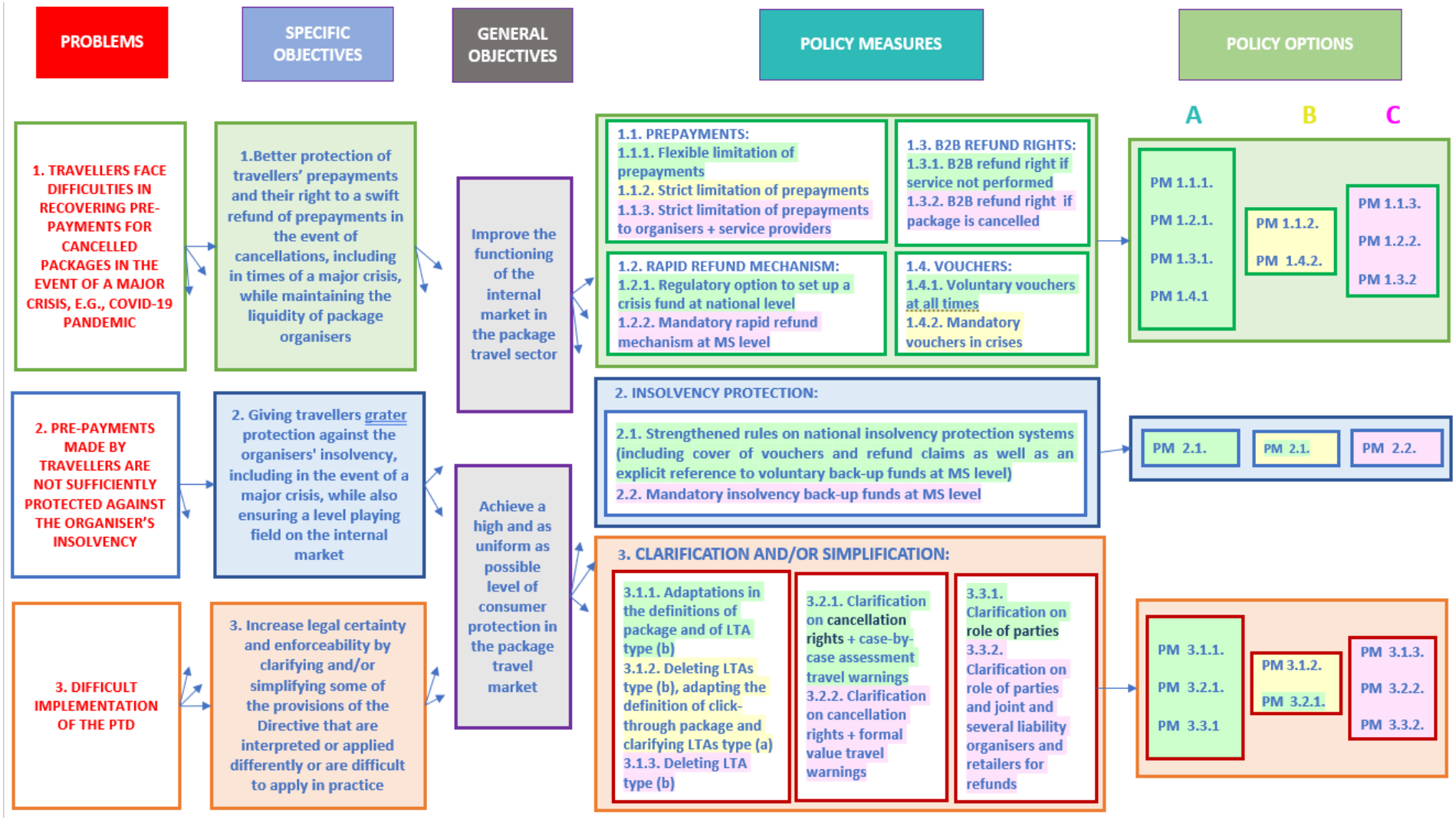
**Specific Objective 3 ("SO3"):** Increase legal certainty and enforceability by clarifying and/or simplifying some of the provisions of the Directive that are interpreted or applied differently or are difficult to apply in practice (addressing Problem 3).

The three specific objectives are inter-related in different ways. For instance, the measures aiming to implement SO2 will also facilitate the achievement of SO1. Furthermore, while certain measures implementing SO3 are self-standing, for instance the ones related to LTAs, legal certainty will also be increased through some measures implementing SO1 and SO2, e.g., through rules on vouchers or clarifying that vouchers and refund claims are to be covered by insolvency protection.

## 5. WHAT ARE THE AVAILABLE POLICY OPTIONS?

This SWD assesses policy measures addressing one or several of the three problems. As the SOs are interlinked, some of the policy measures ("PMs") presented below provide (partial) solutions to more than one problem. They are presented under the problem they primarily address. Some measures exclude each other and could not be applied simultaneously. Different combinations of these policy measures ('options') can achieve the defined SOs to different extents. The intervention logic depicts the interactions between the identified problems, the specific and general objectives and the proposed policy measures and the resulting options. This intervention logic is presented in figure 1 below.

*Table 1 Intervention Logic*



### 5.1. What is the baseline from which options are assessed?

The baseline (Policy option 0) implies the continuation of the current situation, the status quo, without the introduction of new measures (do nothing scenario), thus maintaining the Directive in its present form. The baseline is described and analysed in the evaluation.

The evaluation suggests that the PTD was only partially effective in achieving its stated objectives. Crises (e.g., COVID-19) exacerbated some issues, but some provisions proved not to be fully effective also in non-crisis situations. While guidance and evolving case law may help interpret some notions or provisions, such potential is limited by the wording of the relevant provisions and concepts. Maintaining the Directive as it stands would thus not address its shortcomings.

The current APRR and Air Services Regulation have certain impacts on organisers under the dynamic baseline scenario. Indeed, organisers reported that due to the current lack of compulsory insolvency protection for airlines, they face higher insolvency protection costs than if compulsory airline insolvency protection would exist. However, the currently envisaged changes in the APRR will not affect this baseline scenario, while no relevant future changes in the Air Services Regulation can be assumed.

Any strengthening of the Consumer Protection Cooperation Regulation and of the Directive on alternative dispute resolution would increase the chances of effective enforcement of the PTD in relation to traders.

In a major crisis, but also at normal times, travellers can face problems recovering prepayments for cancelled packages. In some Member States there are restrictions on the amount of prepayment that may be asked for a package that can somewhat decrease the risk of problems with refunds to travellers in case of a cancellation. E.g., in Germany, based on national case-law on unfair contract terms, prepayments are limited to a 20% down payment at the time of booking, the rest being due not more than 30 days before the beginning of the trip. As an exception to this general rule, prepayment can be higher than 20% in circumstances where the organiser duly justifies it, due to expenditures present at the time of the conclusion of the contract. A limitation of prepayment to 20% applies also in Austria, unless unlimited insolvency protection is available. In one Member State, there are no national rules on prepayments, but the industry itself applies a limitation of 20% of the price paid ten days after booking and the rest four weeks before the start of the trip. in practice. Also, in other Member States the average prepayments lie around 20%-30%.[223] However, prepayments can vary depending on the relevance of flights and the length of the trip and the nature of the package. In particular dynamic packages with a high share of the transport element, the percentages can be considerably higher and can go up to even 100% if the package contains a large flight component.[224] A report commissioned by the Dutch Ministry of Economic Affairs and Climate found that the average prepayment rates in 6 countries, i.e., the Netherlands, Portugal, Germany, France, Denmark

[223] It was mentioned during the ECTAA Workshop in the European Parliament on 21 March 2023 that prepayments are in general around 20%-30% but can go up to 100% in case the package contains a flight.

[224] Source: Workshop with experts from national authorities on 5 December 2022, Minutes available at https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=895&fromMeetings=true&meetingId=45937&

and UK, were around 25%-30%.[225] Moreover, according to consumer organisations, prepayments lie at approximately 40% in both Malta and Spain.[226]

An important feature of the status quo is that organisers do not hold travellers' pre-payments but use them to pay for travel services. Therefore, in case the package is cancelled, and they need to reimburse travellers within 14 days following the application of the PTD, they can find themselves short of funds to do so if service providers do not refund them quickly enough. While, under contract law, service providers have to refund prepayments for services not rendered, there is at present no explicit business-to-business refund right with a specific deadline in the PTD. Therefore, under the baseline scenario, organisers may face liquidity problems if faced with many refund requests from travellers at the same time, this implying a risk that many travellers will not be reimbursed within the legal deadline.

In addition, certain types of payment methods used when booking the packages can in some cases help consumers to get money back more easily. However, no detailed figures on the payment methods used are directly available. In a few Member States, travellers enjoy statutory protection for services not rendered if purchased with a credit card and can claim money back from their credit card company. Another way for travellers to try to recover their prepayments is through credit card chargeback, as stated in the terms and conditions of Visa and MasterCard. On a traveller's request, it allows banks to withdraw funds that were previously deposited into a service provider's bank account if the service is not provided. Chargeback is a voluntary industry scheme that many banks participate in but is not available in all Member States. Moreover, not all travellers prepay packages by credit card. In 2020-2021, only 51% of adults in high-income economies used a credit card in general. While no specific data are available on the means of prepayment for package holidays within the EU, it is unlikely to be significantly higher than the aforementioned 51%. In addition, the experience during COVID-19 showed that protection mechanisms related to credit cards are insufficient to address the question of prepayments. Notwithstanding the foregoing, potential chargeback is unrelated to the right of the traveller to get reimbursement from the organiser in case of cancellation under the PTD. It is, therefore, important to make sure that, when a package is cancelled, travellers always get a timely refund from the organiser, independently on the payment method used. Only this would allow for equal treatment of all travellers within the EU. As a result, the availability, or not, of chargeback is not taken into account in determining the magnitude of the problem in the baseline.

Continuation of the status quo would thus likely lead to travellers' continuing to experience financial losses, especially in a major crisis. Based on alternative calculations, such cumulative yearly losses of travellers were estimated in a support study[227] at between EUR 126 million and EUR 1.6 billion.[228] Direct costs related to compliance with the PTD would remain the same for businesses.[229] The costs

[225] Source: Panteia, Onderzoek financiering (pakket)reissector - Voor het ministerie van Economische Zaken en Klimaat, 14 March 2023, p. 56, https://www.rijksoverheid.nl/documenten/rapporten/2023/03/14/onderzoek-financiering-pakketreissector

[226] Response of BEUC to the targeted consultation.

[227] ICF Study, not yet published, p. 122-123.

[228] Based on the 2017 package sales figures, and considering a 10%-30% loss rate, ICF estimated that this could result in cumulative yearly losses ranging from EUR 540 million to EUR 1.6 billion. Based on an alternative calculation, ICF estimated the yearly consumer detriment at between EUR 126 million and EUR 378 million.

[229] These costs include awareness of the PTD requirements, administrative burden related to information provision and the costs of insolvency protection. In the responses to the targeted survey for businesses associations, administrative burden related to information costs or costs for improper performance were estimated at respectively EUR 9.2 and EUR 25 per package. Costs related to assistance to travellers were estimated EUR 250-300 per package. Costs to achieve and

of insolvency protection, especially in relation to insurance-based solutions, went up moderately to significantly in several Member States in recent years,[230] often in connection with COVID-19.[231] Hence, if the status quo is maintained, compliance costs will either be stable or increase.

As a reaction to the difficulties encountered during the COVID-19 pandemic, certain Member States, i.e., Poland and Denmark, set up crisis funds at national level. Such funds, allowing for timely reimbursement of travellers in case of cancellation for unavoidable and extraordinary circumstances, are, at least in the case of Poland, expected to remain in place.

The 2020 Recommendation would formally remain in place. However, its scope is limited to vouchers issued during the COVID-19 pandemic and does not address many problems identified in the evaluation. In addition, it is not legally binding and does not guarantee rights to travellers. Indeed, many Member States and traders did not follow the principles contained in it.[232]

Moreover, maintaining the status quo would imply continued enforcement-related costs and other costs for public authorities. The Commission would continue to monitor how the PTD is being implemented at national level, and national authorities would continue to enforce compliance by package organisers and other traders with the current rules. The median costs, for national enforcement and insolvency protection authorities, were reported to reach approx. EUR 97,000 per year per Member State for national enforcement authorities and EUR 5500 for insolvency protection authorities, per Member State.[233] Enforcement authorities would continue to cooperate through the Consumer Protection Cooperation (CPC) network[234] and the network of central contact points for insolvency protection.

Travellers could continue to seek redress also through alternative dispute resolution bodies[235] and European Consumer Centres Network (ECC-Net) or other legal means available at national level. From 25 June 2023, they could also do so through qualified entities under the representative action mechanisms for protecting consumers' collective interests.[236]

### 5.2. Options discarded at an early stage

#### *5.2.1. Non-legislative measures*

It would have been an option to introduce **exclusively non-legislative measures**, such as a Commission guidance notice or a recommendation, instead of amending the PTD. This option was

maintain compliance, including costs to train staff, were estimated a company at EUR 9.000 per year. The costs of insolvency protection vary significantly between Member States, ranging annually from 2.500 EUR to 250.000 EUR.

[230] Annex 13, Evaluation, EQ3 and EQ7

[231] Targeted survey for NCAs (insolvency protection), Q6, targeted survey for businesses associations, Q30, and public consultation, Q67, Q66 and 65, as well as PTD Application Report, section 4.2.2. on *Insurability of risks.*

[232] Annex 13, Evaluation, EQ5 and Appendix IX. Package travel during the COVID-19 pandemic of the Evaluation

[233] Data sourced by ICF from the targeted surveys reflecting median average of the reported amounts.

[234] Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004

[235] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63); Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1)

[236] Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1). This is without prejudice to any possible additional mechanisms at Member State level.

discarded at an early stage, as it corresponds largely to the baseline detailed under section 5.1. With exclusively non-legislative measures, the Specific Objectives (SOs) could be achieved only to a very limited extent, if at all. Information campaigns have already been carried out. Furthermore, such campaigns cannot resolve the legal uncertainty identified in the evaluation and the problem definition above. While guidance in conjunction with evolving case law may help interpret some notions or provisions to some extent, such potential is limited by the wording of the relevant provisions and concepts. Hence, guidance cannot resolve the issues of legal uncertainty identified in the evaluation and in the problem definition above such as the question of whether refund claims and vouchers should be covered by insolvency protection or the complexity of the provisions on LTAs. Many of the issues identified (e.g., prepayments not being sufficiently protected, excessive complexity of some rules) could thus not be tackled without legislative changes. Moreover, the effectiveness of soft law alone is uncertain, as it would depend on the will of national legislators and traders to follow any non-binding guidance or recommendation. As a result, gaps and uncertainties in the PTD would remain. This implies that varying levels of consumer protection and implementation between Member States, plus the absence of a level playing field would remain in important respects. Such discrepancies in implementation of non-legislative measures have been evidenced, for instance, in relation to the 2020 Recommendation on vouchers.

As explained under the problem definition, there are no insurance products available to travellers in the market to address any of the identified problems.

Purely non-legislative measures would hence not be effective.

In any event, even if legislative amendments are proposed, the Commission retains the possibility to issue guidance and other non-binding measures at a later stage to enhance the interpretation and application of the Directive. Possible guidance will be more useful at a later stage, for instance, after the European Court of Justice (ECJ) has clarified certain issues in pending preliminary rulings, in relation to cancellations due to unavoidable and extraordinary circumstances in particular situations and at particular stages of the pandemic, and possibly after certain provisions and concepts have been clarified in the PTD. The same applies to possible additional information campaigns. Moreover, legislative changes do not preclude the active enforcement of the existing and new rules by the Commission in relation to the Member States.

#### *5.2.2. Legislative measures discarded after a preliminary assessment*

According to stakeholders, a **total ban of prepayments** to organisers would seem very difficult to implement, especially since many organisers prepay themselves the services included in a package at the time of booking. Stakeholders indicated that organisers request prepayments at the time of booking in the range of 20%-30%. This can be much higher, in particular, where the package includes a significant flight component, as, at least for scheduled flights, airlines usually require full payment of the ticket at the time of booking.[237] A complete prohibition could hence lead to liquidity problems for organisers or the need to obtain capital to finance prepayments to service providers on the capital market, as long as pre-payments for included services are not limited. In addition, a total ban on prepayments is likely to lead to higher prices and less choice in packages and thus less protection for

[237] Mentioned during the ECTAA Workshop in the European Parliament on 21 March 2023.

travellers. Indeed, as indicated by some stakeholders, airlines may decide in such case to offer only flexible, i.e., more expensive, tickets for packages. Stakeholders generally oppose this measure.[238]

**Obligation for organisers to give travellers the choice between a package with prepayment and one with no or limited prepayments, possibly at different prices.** Travellers choosing packages without prepayment (or with a limited one) would face higher package prices (5 % price increase expected[239]) and potentially a limited offer. While they would have the choice to book their packages early and still use the funds for their own purposes until shortly before departure, it is unclear to what extent this may offset the increased costs of packages. Moreover, this measure would create considerable administrative burden for organisers, who would need to maintain a double booking and accounting system to account for packages with different payment terms. As a result, businesses strongly oppose this measure. [240]

While it would theoretically be possible to introduce specific **rules on voluntary vouchers that would apply exclusively in times of crisis** (as per the 2020 Recommendation), this did not seem appropriate. Such measure would require a central instance to declare the presence of a significant crisis to trigger this possibility, which would raise additional questions and make this instrument unnecessarily heavy. It would also prevent legal clarifications and guarantees on the use of vouchers at normal times.

***Funds at EU level (rapid refund mechanism and/or insolvency back-up fund)***

**New mandatory funds at EU level** could serve as: **(i) a rapid refund mechanism for travellers** (crisis fund) where package organisers face liquidity problems due to a major crisis or **(ii) a back-up where the first-line national insolvency protection system is insufficient.**
Certain Member States have put in place national temporary or permanent insolvency back-up funds or rapid refund mechanisms that are often backed up by State aid, especially where they were created during COVID-19. It would be difficult to find appropriate solutions at EU level, including in relation to State aid rules.

The introduction of **a rapid refund mechanism (crisis fund) at EU level** would likely raise prices and lead to competition problems, as certain organisers might be tempted to freeride. As reported by some stakeholders, it would be difficult to determine when an organiser is facing only temporary liquidity problems (and can rightfully call upon the rapid refund mechanism), as opposed to more persistent liquidity issues putting him in a state of insolvency.[241] Such a crisis fund at EU level would be in addition to similar funds already existing in certain Member States or would replace them. This

[238] Public consultation Q22: 80% of companies and business associations (290 of 361) believe that there should be no prohibitions or limitations of prepayments for packages. This view is supported by 33% of public authorities (7 of 21), 44% of EU citizens (30 of 68). No consumer organisations agree with this view. At the same time, only 8 of 496 respondents to this question selected "*Pre-payments for packages and LTAs should be prohibited completely.*", i.e., 1 of 310 companies, 3 of 21 consumer organisations, 3 of 68 EU citizens and 1 of 18 other stakeholders. In addition, in reply to the consumer survey Q13, 50% of respondents (N:10152) indicated not being willing to pay a moderately higher price if they would need to pay the full price only a few days before travel.
[239] Targeted business survey Q38: 8 of 13 respondents selected this answer option.
[240] Annex 2. Stakeholder consultation, Targeted business survey, Q41.5: 16 of 20 agreed; 1 disagreed; 3 don't know.
[241] This view was supported by certain Member State authorities who reported similar facts during the Covid-19 pandemic.

may lead to duplication and raise subsidiarity concerns. Most businesses disagreed with the idea of an EU crisis fund[242] and only 43% of consumer organisations were in favour of it.[243]

Concerning a potential **mandatory insolvency back-up fund at EU level**, certain Member States have put in place such funds at national level on a temporary or permanent basis, which are said to work well. Therefore, an insolvency back-up fund at EU level would be in addition to such funds at national level or would replace them, raising subsidiarity concerns and possible duplication. Furthermore, a back-up fund at EU-level that applies more generally would dilute the responsibility for setting up effective systems at national level and would be difficult to reconcile with the differences between national insolvency systems, which will prevail, even if an amending directive were to increase the level of harmonisation. Consequently, while such a back-up fund might be useful for some, it is not necessarily so for Member States with certain types of insolvency protection funds, or which have found other ways to ensure the effectiveness of their insolvency protection systems. Accordingly, half of the national insolvency protection agencies responding to the targeted survey rejected the idea of a back-up fund EU-level, and only one supported it.[244] Furthermore, it would be difficult to ensure a calculation of contributions that would correspond to the needs of all Member States and that would be considered fair. While many consumer organisations supported the creation of an EU-level back-up fund,[245] most businesses rejected this idea.[246]

Moreover, it would be difficult in practice to organise and manage a rapid refund mechanism and/or an insolvency back-up fund at EU level. Creating a specialised agency at EU level would be necessary to manage such funds or the delegation of responsibilities to a private institution under the Commission's supervision. Consequently, it would bring about coordination, set-up and management/administration costs. Based on the available information, this would be fairly costly.[247]

Consequently, based on the preliminary assessment of available information, the added value of a fund or funds at EU level, as compared to solutions at Member States level, seems rather limited. In view of the foregoing, the option to set up such funds or mechanisms at EU level has been discarded.

### 5.3. Description of the policy options assessed in detail

In addition to policy option 0 (status quo), this SWD examines various legislative measures that could, through amendments to the PTD achieve the specific objectives described in section 4.2 to different extents. The measures are grouped into three policy options, either favouring minimal costs (option A) or maximal effectiveness (option C), option B being a middle-solution.

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[242] Public consultation Q23: 55% of companies and business associations (200 of 362) believe that there should be no crisis fund, believing the cost to travellers would outweigh possible benefits while 53 of 362 (15%) selected "Yes. A crisis fund should be created at EU-level.".

[243] Targeted survey for consumer organisations Q23: 5 of 11 consumer organisation. Public consultation Q23: 43% (9) of 21 consumer organisations (as well as 37%, 7 of 19 public authorities) selected: "Yes. A crisis fund should be created at EU-level."

[244]Targeted survey for NCAs (insolvency protection), Q10, N=12: 1 agreed, 6 disagreed with a mandatory EU back-up fund,5 did not know.

[245] See footnote 242.

[246] Targeted survey for business associations, Q32: 9 of 14 (69%) business respondents were against a mandatory insolvency back-up fund at EU level. Public consultation Q23, N=311 companies: 212 (68%) selecting no such EU or national fund is necessary either because costs for travellers would outweigh the benefits (191) or because current rules and ad hoc state aids are sufficient (21), while 41 (13%) would support an EU level mandatory back-up fund.

[247] E.g., the Single Resolution Fund set up by the Commission has 450 staff and manages around EUR 60 billion of funds. Any EU-level insolvency back-up fund and/or crisis fund would be proportionately smaller. However, even when considering that it may be 10 times smaller, the resulting personnel costs would still be substantial.

Option A consists of targeted amendments to the PTD aiming to clarify and simplify it and making it more effective, while having a limited/moderate cost impact. Option B would further improve the level of consumer protection, in some respects, but increase the costs for different categories of stakeholders (both businesses and travellers). Option C includes measures aiming at the highest level of consumer protection in relation to SO1 and 2, but at high costs. In this way, the three change options are structured in light of the anticipated proportionality of the included measures with regard to addressing problems 1 and 2, with option A making the Directive more crisis-proof compared to the status quo while limiting the costs at ordinary times as compared to option B, which contains more rigid measures on prepayments and vouchers, and option C, which ensures very effective preparedness for a major future crisis while implying high costs at ordinary times.

The detailed policy measures included in the options are presented under the problem they predominantly address.

#### *5.3.1. Measures addressing Problem 1: Travellers face difficulties in recovering prepayments for cancelled packages, in particular in the event of a major crisis*

**Measure 1.1 Limitation of prepayments**

To protect the money of travellers in the event of cancellations and insolvencies and limit the burden on the insolvency protection systems, a partial limitation of prepayment at the time of booking could be provided in the PTD. Under general civil law the fundamental principle is that payments for a service are made when it is performed and not in advance. Therefore, it is the request for pre-payment that requires justification and not the absence thereof. Under the general unfair contract terms provisions, a deviation from this general legal principle would have to be justified to be considered fair and valid. This is incidentally the basis of the German case law on the limitation of prepayments.

The prepayment could be limited to a relatively low percentage of the total price, the balance being due 4 weeks before the start of the package. In order not to multiply different systems of limitation of prepayments, the same threshold could be proposed as currently used in Germany and in Austria[248, 249]. This level seems also justified by the fact that, in practice, in some other Member States the average prepayments lie around 20%. E.g., in one Member State there are no national rules on prepayments, but the industry itself applies a limitation of 20% of the price paid ten days after booking and the rest four weeks before the start of the trip. On the other hand, a report commissioned by the Dutch Ministry of Economic Affairs and Climate found that the average prepayment rates in 6 countries, i.e., the Netherlands, Portugal, Germany, France, Denmark and UK, were around 25%-30%.[250] This could justify setting the threshold for the prepayment limitation at 25% of the total price. However, prepayments can vary depending on the relevance of flights and the length of the trip. They

[248] In Austria, in the absence of insolvency protection, the prepayments may not exceed 20%.

[249] Public consultation Q22: 10% of companies and business associations (35 of 361) believe that prepayments for packages and LTAs should be limited to a maximum of 20% at the time of booking, with the rest be paid shortly before departure (e.g., 3 days in advance). This view is supported by 71% of consumer organisations (15 of 21), by 29% of public authorities (6 of 21) and 29% of EU citizens (20 of 68). It may be interesting to note that there were no significant differences in views between different types of companies based on their main activities (organiser, retailer, carrier, LTA facilitator). However, this is not necessarily the case for those choosing only one activity. E.g. in case of "pure" retailers, the answers were more evenly distributed between the two answer options regarding limitation mentioned in this and footnote 282. Another point to consider is that the replies to this question seemed to be affected by a so-called campaign or coordinated reply by a high number of similar respondents (micro travel agencies). See more information in Annex 2.

[250] Source: Panteia, Onderzoek financiering (pakket)reissector - Voor het ministerie van Economische Zaken en Klimaat, 14 March 2023, p. 56, https://www.rijksoverheid.nl/documenten/rapporten/2023/03/14/onderzoek-financiering-pakketreissector

can e.g., go up to even 100% if the package contains a large flight component.[251] According to consumer organisations, average prepayments lie at approximately 40% in both Malta and Spain.[252]

The deadline of 4 weeks before departure for the full payment has been set to protect organisers as it will ensure that all services have been paid for by the traveller before the departure. This seems also to be in line with the current practice of prepayments. Indeed, almost all consumer organisations and business organisations responding to the targeted survey stated that usually travellers make a down-payment at the time of booking, and the remaining amount is paid some time before start of contract (e.g., one month).[253,254]

There are several ways of implementing such a limitation. Under ***Measure 1.1.1 - Flexible limitation of prepayments - part of Option A*** - the organiser would retain the flexibility to ask for prepayments higher than the threshold set, where this is justified .[255] An increase would be justified where this is necessary to ensure the organisation and the performance of the package. This would, for example, be the case where organisers have to make higher advance payments to service providers or need to cover their other costs related specifically to the organisation of the package at the time of booking or shortly afterwards. Such a limitation of prepayments would not apply to package travel gift boxes and packages booked less than 28 days before the start of the package. Organisers would continue to be obliged to inform travellers about the prepayments they request before the conclusion of a package travel contract.

This measure would be in line with the current practice in Germany, where, based on national case-law on unfair contract terms, prepayments are limited to a 20% down payment at the time of booking, the rest being due not more than 30 days before the beginning of the trip. [256] Also in Germany the prepayment can be higher than threshold in circumstances where the organiser duly justifies it, due to expenditures present at the time of the conclusion of the contract.

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[251] Source: Workshop with experts from national authorities on 5 December 2022, Minutes available at https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=895&fromMeetings=true&meetingId=45937&

[252] Response of BEUC to the targeted consultation.

[253] Responses of consumer organisations to the targeted consultation, several responses possible. 11 out of 12 replies (several responses possible) indicated that travellers make a down-payment at the time of booking, and the remaining amount is paid some time before start of contract (e.g. one month), 4 out of 12 that travellers make a down-payment at the time of booking and the remaining amount is paid immediately before the start of contract and 5 out of 12 that travellers pay the full price at the time of booking.

[254] Responses of business organisations to the targeted consultation, several responses possible. All respondents (10) indicated that travellers make a down-payment at the time of booking, and the remaining amount is paid some time before start of contract (e.g. one month), 2 out of 6 that travellers make a down-payment at the time of booking and the remaining amount is paid immediately before the start of contract and 3 out of 12 that travellers pay the full price at the time of booking.

[255] Public consultation Q58: Several factors have been quoted by companies as having a strong impact in determining their prepayment policy: Prepayments requested by airlines etc. have been quoted by 91% of companies (224 of 246). The next important factor is prepayments required for accommodation having a strong impact according to 85% (208 of 246). This is followed by limitations on prepayments in national law or case law (79% ,194 of 245), costs of insolvency protection (48%, 69 of 144), possibility to offer more attractive/competitive packages (28%, 40 of 141) and other reasons (16%, 10 of 61).

[256] Annex 13, Evaluation EQ5. See also case law: BGH – X ZR 71/16 available at: http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=79534&pos=0&anz=1 , BGH - X ZR 85/12 available at: http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&sid=46187c163b972182902743377a1dcc62&nr=70493&pos=0&anz=1

***Under measure 1.1.2 strict limitation of prepayments - part of Option B***, there would be no flexibility for organisers, so that the maximum prepayment for travellers at booking would always be 20% regardless of prepayments made by organisers. This stricter, fixed, threshold of 20% for the prepayments would be justified by the fact that this is the lowest average level of prepayments observed in one of the Member States.[257]

***Measure 1.1.3 Strict limitation of prepayment to organisers and service providers*** - part of Option C) would limit not only prepayments from travellers to organisers, but also from organisers to service providers. [258]

**Measure 1.2 Rapid refund mechanism (i.e. crisis or liquidity fund):**

As confirmed by the evaluation, organisers face liquidity problems when confronted with many simultaneous refund requests, this hindering refunds to travellers.[259] A possible solution would be a rapid refund mechanism (a crisis/liquidity fund). During COVID-19, already under the current PTD, several Member States designed State aid schemes, providing loans to organisers to pre-finance refunds. In addition, one Member State – Poland – created a permanent crisis fund (rapid refund mechanism).[260] The European Court of Auditors has invited the Commission to assess the option of introducing such a permanent mechanism across the EU. Such mechanism/fund would ensure that travellers who do not accept vouchers receive a timely refund without endangering the liquidity of organisers. This fund would have to be built up over time through fees paid by all organisers.

The mildest measure in relation to such mechanisms would be a clarification on the ***possibility to set up a crisis fund at national level –Measure 1.2.1 - part of Option A***. It would be clarified in the PTD that the Member States may consider maintaining or introducing such a mechanism subject to compliance with State aid rules. Should they indeed decide to do so, they would be obliged to inform the Commission and the Central Contact Points of the Member States of the introduction of such a mechanism, thus ensuring an exchange of information. As this issue is currently not regulated in the PTD, it is a priori already admissible that Member States introduce such crisis funds/mechanisms. Therefore, this measure would not lead to additional legal fragmentation.

Alternatively, a crisis/liquidity fund could be made mandatory, ***Measure 1.2.2 – part of Option C***.

**Measure 1.3 Business-to-business (B2B) refund right**

Another way of increasing the protection of travellers' prepayments in practice would be the introduction of a B2B refund right. Under measures 1.3.1 part of option A and 1.3.2 part of option C, service providers would be obliged to refund to the organiser all prepayments for services within 7 days of a cancellation. Since, where a package travel contract is terminated (e.g., due to unavoidable and extraordinary circumstances) under the PTD, the organiser must refund all prepayments to

[257] Source: Workshop with experts from national authorities on 5 December 2022, Minutes available at https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=895&fromMeetings=true&meetingId=45937&

[258] Public consultation Q22b: 62% of companies and business associations (174 of 282) agree that prepayments for packages should be prohibited only if other travel service providers, including airlines and other carriers, are subject to similar restrictions. 67% of public authorities (14 of 21) and 52% of EU citizens (32 of 61) agree with this statement, while 86% of consumer organisations (18 of 21) disagree.

[259] Annex IX. and Annex 13, Evaluation, EQ5

[260] To be noted that Poland granted State aid for this measure, which was approved under the Temporary Crisis Framework. State Aid SA.58102 (2020/N) – Poland COVID-19 support to tour operators and other undertakings active in tourism and culture, https://ec.europa.eu/competition/state_aid/cases1/202039/287812_2191234_87_2.pdf

travellers within 14 days,[261] the introduction of the B2B refund right would enable organisers to make timely refunds to travellers or, where agreed with the traveller, to book services for a substitute package, while maintaining their liquidity.

Under ***Measure 1.3.1 - part of Option A*** – the B2B refund right would apply only if the service provider cancels the relevant service (e.g., a flight) and the 7 days would start running from that cancellation. This would be independent of any cancellation of the related package (e.g., due to unavoidable and extraordinary circumstances).

While the PTD does not currently regulate the business-to-business effects of the cancellation of packages as such, it provides for the right of organisers to seek redress from third parties (Article 22 PTD). Therefore, providing specifically for a refund right against the service provider who cancels a service would be in keeping with the spirit of the PTD. This measure is also consistent with the 7-day business-to-business refund right included in the preferred option of the impact assessment on passenger rights in cases where an intermediary is involved in the sale of air tickets and the air carrier decides to reimburse passengers via the intermediary.

Under ***Measure 1.3.2 - part of option C***, service providers would have to refund all prepayments to organisers within 7 days after the cancellation of a package due to unavoidable and extraordinary circumstances and the communication of this fact to the service provider. Such refund right would exist even if their service was or could have been provided (e.g., the flight took place or the hotel was open).

**Measure 1.4 Introduction of rules on vouchers**

Under these new rules, in line with the 2020 Recommendation, organisers would be able to offer vouchers instead of refunds upon cancellation of a package. Such rule would entail the following conditions: (i) vouchers should have at least the same value as the cancelled package; (ii) the validity of the voucher would be up to 12 months, but might be extended once with the explicit agreement of both parties; (iii) if the voucher is not redeemed or extended, travellers would receive a refund automatically when its validity period expires; (iv) vouchers would be protected against the insolvency of the issuer;[262] and (v) the rights of travellers must be clearly stated on the voucher. [263]

Under ***Measure 1.4.1 Voluntary vouchers at all times - part of Option A -*** vouchers could be offered always (during and outside a crisis) and would be voluntary, i.e., organisers would have to inform travellers that they are entitled to a refund within 14 days but may instead accept a voucher.

Under ***Measure 1.4.2 - Mandatory vouchers in times of crisis – part of Option B*** - the PTD would permit vouchers only during a crisis and travellers would then have to accept them instead of a refund.

[261] Annex 13, Evaluation, EQ5, sub-section B2B rights - Delay in reimbursing travellers due to the fact that organisers faced problems in recovering the prepayments from service providers.
[262] This is one of the features of the examined rules on vouchers. However, the cover of vouchers and refund claims by insolvency protection is more specifically analysed in connection with Measures 2.1 and 2.2 concerning insolvency protection.
[263] Annex 13, Evaluation, EQ3, sub-section Refund claims and vouchers and EQ5, sub-section Vouchers

### 5.3.2. *Measures addressing Problem 2: Prepayments made by travellers are not sufficiently protected against insolvency of the organiser*

Under ***Measure 2.1 - Strengthened rules on insolvency protection, covering vouchers and refund claims with insolvency protection and explicit reference to back-up funds - part of Options A and B*** **-** it would be specified that the organiser's insolvency protection must cover all prepayments received at the period when the highest number of bookings takes place plus, where appropriate, the costs for repatriations.[264] Moreover, wording would be added[265] to strengthen the responsibility of the Member States to ensure effective insolvency protection, for instance, through exposure analysis or a sufficiently high minimum percentage of the organisers' turnover to be covered by an insurance policy. Additionally, the PTD would refer to insolvency back-up funds as one means to address gaps, limits or limited availability in first-line insurance policies. Indeed, the PTD already today obliges the Member States to protect travellers effectively against the insolvency of the organiser. The additional parameters mentioned, including the setting-up insolvency protection back-up funds are indicated as possible ways to achieve this objective and thus aim at improved implementation. [266] Information on such solutions would be exchanged within the network of central contact points of the Member States.

Contributions for an insolvency back-up fund would come, in principle, from package organisers. The exact amount or percentage per package to be paid as fee would be determined by the Member States that decide to introduce such a fund and will depend on national specificities, including the features of the first-line insolvency protection.

Under ***Measure 2.2 Strengthened rules on insolvency protection, covering vouchers and refund claims with insolvency protection and mandatory back-up fund at Member State level - part of option C***- the PTD would make such fund mandatory.

### 5.3.3. *Measures addressing Problem 3: Difficulties in implementing the Directive*

***Simplification of the key concepts, including the full or partial deletion of LTA, and of related information requirements***

The evaluation confirmed that provisions on single-point of purchase LTAs (type (a)) as well as click-through LTAs (type (b))[267] were ineffective in achieving the PTD's stated objectives. To achieve simplification, under ***Measure 3.1.1 - part of Option A*** - LTAs type (a) could be removed from the Directive. For single-point-of-purchase packages, the criterion of services having been selected before the traveller agrees to pay would be complemented with an alternative criterion inspired by the notion of 'services booked on the occasion of a single visit or contact', taken from the definition of LTAs type (a), so as to avoid the difficult distinction between these types of combinations under the current rules. At the same time, the vague term "on the occasion of a single visit or contact" would be replaced with a specification of a short period of time within which the bookings are made to achieve a more legal certainty. This would make LTAs type (a) obsolete In addition, the definition

[264] Please note that repatriations are already covered under current Article 17.
[265] in Article 17.
[266] Public consultation Q18, N=434: respondents supported the following solutions: 1. A back-up system (e.g. a fund) at EU-level as a safety net for cases where the insolvency protection of an organiser is insufficient to cover all refunds and repatriations, even if there is no general crisis - 35% (157 respondents), 2. Other suggestions: - 19% (81), 3. The Commission should enforce the rules better in relation to the Member States - 36% (157), 4. The current rules of the PTD are appropriate and should not be changed - 27% (117 respondents).
[267] Type (a) LTAs are defined in Article 3(5) (a) and type (b) LTAs in Article 3(5)(b),

of click-through package in Article 3(2)(b)(v) and the definition of single-point-of-sale package, in Article 3(2)(b)(i), would be adapted. All click-through bookings where the traveller's personal data are exchanged between traders would be packages[268], i.e., a smaller group of click-through bookings would be treated as packages. Type (b) LTAs would be maintained, but their definition would be simplified to allow for easier application. The definition would be limited to situations where a trader that is party to a first contract invites a traveller to book additional types of travel services for the same trip or holiday and receives payments from or on behalf of travellers. Furthermore, for traders to know that they are subject to this obligation, they would recommend to travellers through the information forms on linked travel arrangements recording the invitation to book additional travel service and the additional booking and to inform the trader with whom a first contract was concluded that a contract on an additional type of travel service has been concluded for the same trip or holiday within 24 hours following the confirmation of the first booking. To allow for this, the trader would need to make available to travellers a facility, such as an email address or a website, where travellers can register such information, and must acknowledge receipt of such information. As currently, the second trader would remain obliged to communicate to the first trader that a contract has been concluded.

Under ***Measure 3.1.2 Deleting LTAs type (b), adapting the definition of click-through package and clarifying LTAs type (a) - part of Option B***, LTAs type (a)[269] would be kept, while LTAs type (b)[270] would be deleted. The definition of click-through package would be adapted as under measure 3.1.1. Regarding LTAs type (a), the criterion of a "single visit or contact" in Article 3(5)(a) would be explained in a recital (as under Measure 3.1.2) to achieve a more uniform interpretation. In addition, information on insolvency protection would be provided to travellers only where such protection exists.

Under ***Measure 3.1.3 Deleting LTAs type (b) - part of Option C*** - only LTAs type (b) would be deleted, and the definition of click-through package adapted as under the other measures. LTAs type (a) and the definition of single-point-of-purchase package would remain unchanged.

Depending on the degree of simplification of the substantive rules under Measure 3.1., the information to travellers could be improved and simplified, including through the removal of some information forms for LTAs (three for Measure 3.1.1, two for Measures 3.1.2 and 3.1.3).

***Clarifications on cancellation rights due to unavoidable and extraordinary circumstances***

To increase clarity on the impact of travel warnings and reduce uncertainty in relation to cancellations due to unavoidable and extraordinary circumstances[271,272], a ***clarification of cancellation rights, explaining the role of travel warnings, while leaving scope for a case-by-case assessment*** would be

[268] In Article 3(2)(b)(v). A click-through package would still require the transfer of personal data but not at the same time, name, email address and payment details.
[269] This refers to LTAs defined in Article 3(5) (a), i.e., single-point-of-purchase LTAs.
[270] This refers to LTAs defined in Article 3(5) (b), i.e., click-through LTAs.
[271] Annex 13, Evaluation, EQ5, sub-sections General Aspects and B2B rights - Delay in reimbursing.
[272] The evaluation explains that 'the concept came under spotlight in the context of the COVID-19 pandemic. Disputes between travellers and organisers arose as to whether a certain situation could be considered as unavoidable and extraordinary in the sense of Articles 3(12) and 12(2). It must be noted that Article 12(2) adds to the definition of 'unavoidable and extraordinary circumstances' certain conditions which must be fulfilled in order to terminate a contract without a fee. Therefore, the definition is analysed in the context of Article 12 (2) and (4) under EQ5.' Consequently, it is rather the application of this concept in the context of Article 12(2) that poses practical problems and necessitates in some cases clarifications by courts. Otherwise, as showed in the evaluation, the concept is also used in conjunction with other provisions of the PTD for which no problems have been signalled.

envisaged under ***Measure 3.2.1 - part of Options A and B***).[273] Under this measure, it would be clarified that travel warnings are an important element to determine whether unavoidable and extraordinary circumstances prevail and affect the performance of the package. However, it would not *automatically* imply a cancellation right without fees in all cases, whereas the absence of a travel warning would not *automatically* prevent a cancellation right without fees. [274]

Under ***Measure 3.2.2 Clarification of cancellation rights and formal value of travel warnings - part of Option C*** - formal value would be given to travel warnings. This means that the PTD would specify that a travel warning for the travel destination issued by the authorities of the country of departure proves the existence of unavoidable and extraordinary circumstances and the fact that the package is significantly affected by those circumstances. In the absence of a travel warning, the current case-by-case assessment would remain applicable.

In addition to the foregoing, under both Measure 3.2.1 and Measure 3.2.2, it would be specified that the situation both in the country of departure or residence and the country of destination may be taken into account for the assessment of whether unavoidable and extraordinary circumstances prevail and affect the performance of the package.

***Additional specifications and clarifications***

Since travellers may not always understand the role of organisers, retailers and service providers and may thus not identify the trader responsible for the performance of the contract and for the refund of prepayments or for compensation[275], under ***Measure 3.3.1 Clarification of the role of the parties - part of Option A*** - the role of these parties could be further clarified, in particular, in the information forms annexed to the Directive. However, the legal obligation to refund prepayments would stay exclusively with the organiser, unless a Member State uses the regulatory option under the first sub-paragraph of Article 13 (1), as under the current Directive. Under Measure 3.3.2 - ***Retailers also responsible for refund of prepayments – part of Option C***- organisers and retailers would be jointly and severally liable for refunds.

## 6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

All assessed policy options positively contribute to the achievement of Sustainable Development Goals (SDG). By facilitating the provision of better information to travellers and better protection of travellers' rights, the options will result in a more equal position of all travellers in the EU, contributing to SDG no. 10 – reduced inequalities. The clarifications of several provisions in the PTD will reduce inequalities between travellers from different Member States and likely decrease the number of travellers needing recourse to dispute resolution or legal procedures. The proposed measures will hence contribute to promoting non-discriminatory laws and policies and ensuring equal justice, addressed by SDG no. 16 Peace, justice and strong institutions. In addition, the measures will

[273] This measure would apply only to cancellations due to unavoidable and extraordinary circumstances and is not of a horizontal nature.

[274] No data was received from stakeholders to estimate the financial benefits from this measure, but they are likely to be limited.

[275] Annex 13, Evaluation, EQ1 and EQ5, sub-section B2B rights. See also responses to the public consultation Q13: According to 52% (11 of 21) of public authorities and 52% (11 of 21) of consumer organisations, traders should be obliged to inform travellers clearly which trader is acting as an organiser, retailer or service provider in connection with a package and about their obligations towards travellers. 24% (5 of 21) of public authorities and 48% (10 of 21) of consumer organisation indicated also that both organisers and retailers should be legally liable for refunds in all Member States. See also suggestion of the Fit for Future opinion of 22 March 2022.

contribute to promoting growth of SMEs – as most package organisers belong to this category – thereby contributing to SDG no. 8.

As regards environmental impacts, some of the policy measures included in each of the options considered may lead to varying price increases for packages. Such price increases could potentially result in fewer packages being sold. However, the level of any price increase that could be linked directly to changes in the Directive is unlikely to lead to a reduction in overall travel – and thus, to a lower carbon footprint of the travel sector. On the other hand, the proposed options are thus not expected to lead to an increase in the carbon footprint related to travel and thus have no significant environmental impact. Therefore, all policy options are consistent with the environmental objectives of the European Green Deal and the European Climate Law[276] and with the 'do no significant harm' principle.[277]

The use of digital channels to conclude package travel contracts has been on the rise in recent years. The revision of the previous PTD in 2015 already took this trend into account. While certain provisions, e.g., on LTAs, and possible changes to them, may be relevant for this digital dimension, the assessed policy measures are not expected to have any significant impact on digitalisation. Consequently, all policy options are expected to have a neutral impact on the application of the 'digital by default' principle.

As regards social impacts, any impacts on consumer protection, consumer trust and income distribution are included in the economic impacts on travellers and businesses. Otherwise, social impacts are described, in the section hereunder, along with economic impacts.

The proposed individual measures, and the options resulting from their combination, will have an impact on SMEs, as many package organisers belong to this category. According to the evaluation, in 2019, around 99% of organisers in the EU were SMEs.[278] Moreover, 96% of companies that responded to the public consultation are SMEs, the majority of which are micro companies.[279] Therefore, the views of organisers reported below, to a very large extent, represent the views of SMEs and mostly micro enterprises. The proposed changes will affect both large companies and SMEs in the package travel sector. None of the measures proposed are expected to influence the number of SMEs operating in the market significantly. Still, cost factors affecting their operations and potential future growth were identified. These impacts are included in the description of the economic impacts on companies. The detailed SME Test and impacts on competitiveness are presented in Annex 5. Stakeholder consultations are summarised in Annex 2.

Some measures presented below aim to increase legal certainty, thereby decreasing litigation costs and the need to seek legal advice. Businesses not respecting consumer law may incur costs to change

[276] Regulation (EU) 2021/1119

[277] 'Do no significant harm' means not supporting or carrying out economic activities that do significant harm to any environmental objective, where relevant, within the meaning of Article 17 of Regulation (EU) 2020/852.

[278] Annex 13, Evaluation, Section 2.2

[279] Reply to the question about the number of employees of the responding companies: out of the total 323 companies: 249 were micro-organisations (1 to 9 employees), 43 were small (10 to 49 employees), 18 were medium-sized (50 to 249 employees) and 13 were large organisations (250 employees or more). Of the 323 companies that replied, 84% (271) were package organisers, 36% (117) stated they were retailers, 6% (20 companies) were carriers (6%). These categories partly overlap as respondents could choose more than one main activity. Number of companies who selected only one main activity: 157 organisers, 16 retailers, 5 traders facilitating LTAs, 3 carriers, 3 others, 2 insolvency protection providers, 1 trader providing other tourism related services, 1 car rental company, 1 hotel, 1 online platform facilitating bookings for stand-alone travel services and/or packages.

their business practices or are more likely to face sanctions. However, costs resulting from their past or future non-compliance are not considered in this impact assessment.

A modification of the existing Directive will inevitably generate transposition costs for public authorities. Based on the administrative costs for transposition, alignment of procedures, guidance and training, monitoring and reporting of the present Directive, they are estimated at. EUR 49,677 per Member State, i.e., approximately EUR 1.3 million for the whole EU.[280] Considering that each legislative measure assessed below will entail changes to the Directive, such one-off transposition costs are not repeated separately for each option.

### 6.1. Economic and social impacts of Option A

Option A includes the following measures addressing Problem 1: flexible limitation of prepayments (1.1.1), possibility to set up a crisis fund at national level (1.2.1), a B2B refund right if services are not performed (1.3.1) and voluntary vouchers at all times (1.4.1).

#### *Measure 1.1.1 Flexible limitation of prepayments*

This measure would not put additional pressure on the organisers' liquidity and may decrease insolvency protection costs for organisers that currently ask for higher prepayments.[281] Moreover, ***service providers*** would not face any prepayment restrictions, so that their liquidity situation will not change compared to the status quo.[282] On the other hand, ***organisers*** who would like to request higher prepayments, would need to have a justified reason to do so, such as the fact that they need to prepay providers of certain services included in the package or that they need higher prepayments to cover their own costs specifically related to the organisation and performance of the package at the time of booking or shortly afterwards. However, they would not need to provide any specific justification for higher prepayments for each package. Rather, they could calculate the necessary level of prepayments e.g. per type or group of packages having similar characteristics. Moreover, they would continue to be obliged to inform travellers, before the conclusion of a package travel contract, about the prepayments they request in the same way as it is currently done. As a result, their administrative burden would not increase.

In terms of potential changes to the cost structure pursuant to the introduction of Measure 1.1.1, an ***organiser*** responding to the specific targeted consultation of May 2023 indicated that their high-level estimate for a potential price increase, if the threshold were set at 20%, would be 3-4% of the current cost of a package, i.e., similar to a strict limitation of prepayments. However, this estimate seems to overestimate the actual impacts, as in many cases (as long as they are justified) prepayments can stay at the current level. A service provider replied that, in their view, the costs would increase by approx. 7.5% in the EU except for Germany. In Germany, where there is already a limitation of prepayments to 20%, they expect an increase in costs between 2.5% and 5%. The only difference between the current German practice and the proposed measure would be the collection of the remaining sum 28 days before the start of the package instead of the 30 days currently applied by this service provider.

[280] Estimate from the ICF study, Table 23 on page 117. The measures contained in ICF's Option 2 – Targeted revision of the Directive to a large extent overlap with the measures contained in Option A in this SWD. As such, ICF's estimates are used in this SWD, where necessary with certain modifications.

[281] To be noted that flexibility organisers not wishing to use the proposed flexibility might face higher capital costs to make up the difference between the limited prepayments and what service providers demand for a firm booking. This would, however, be their own choice and it is impossible to estimate which percentage of organisers would be concerned.

[282] A few airlines responded to the May 2023 targeted consultation. However, in their replies they did not address the impacts of this precise measure, but of a strict limitation of prepayments to 20% without any possibility to increase them. Consequently, their replies cannot be used in the context of Measure 1.1.1.

A price increase of up to 5% for receiving the funds 2 days later, does not seem plausible, and seems to largely overstate the actual costs increase (if any). It, therefore, also puts into question the reliability of the cost increase figure quoted for the remainder of the EU. In addition, having only two data sources, puts into question the representative value of the provided estimates. Overall, the cost impact for organisers would likely be the same or only slightly higher than the status quo. Still considering the high-end 3% increase in the operating costs of organisers, and the operational costs representing 10% of company turnover, the high side estimate for cost increases of ***organisers*** would be approx. EUR 332.1 million.[283] However, as explained, this seems in any event to largely overstate any potential cost increases. Obviously, the cost impact would be slightly lower if the threshold were set at 25% instead of 20%, which would be in favour of organisers, most of whom are SMEs, or even micro enterprises. This would justify setting the threshold rather at the level of 25% instead of 20%. Moreover, a threshold of 25% would be in line with the average prepayments in a number of Member States[284], but would still allow to bring down the average prepayments in member States where they are substantially higher, such as Spain or Malta, where they currently lie at 40%.[285]

To be noted that it has been indicated by organisers and service providers that any cost increases resulting from the introduction of new measures under the PTD, would be transferred onto travellers through corresponding increases of prices for packages.[286] In view of this pass-through effect, any cost increases for organisers would be compensated by corresponding increases of package prices. In terms of benefits for organisers, with the flexible limitation of prepayments, organisers would obtain sufficient funds to cover prepayments to service providers but would also need to refund less to travellers in case of cancellation for unavoidable and extraordinary circumstances. This may slightly positively impact their liquidity in times of a high number of cancellations. Moreover, the clarification of the permitted level of prepayment would in the medium- to long-term lead to a qualitative improvement of the industry, by favouring sustainable business practices and levelling the playing field for all organisers across the EU. Overall, the measure is expected to have a neutral cost impact on organisers.

The measure is not expected to have any economic impact on service providers.

Considering that this measure harmonises rules among Member States, since some countries already apply prepayment limitations, it will increase effective competition and hence lead to competitiveness gains within the EU. It is not possible, however, on the basis of available data to quantify the competitiveness gain for organisers resulting from this measure. International competitiveness will not change as a result of measure 1.1.1, because third country organisers offering packages to consumers in the EU will also have to apply the revised PTD.

As regards *travellers*, their costs will potentially increase through the cost pass-through by organisers described above, and result in a maximum total cost increase of EUR 332.1 million. This would

[283] On the basis of industry data, i.e. financial accounts published by companies in the sector, a rudimentary cost structure is estimated to be composed of 80% wages, 20% capital cost and a 10% operational margin. The calculation takes into account the estimated 2023 industry turnover, considering that operational costs represent on average 10% of the company turnover and assuming a 3% cost increase.

[284] Source: Panteia, Onderzoek financiering (pakket)reissector - Voor het ministerie van Economische Zaken en Klimaat, 14 March 2023, p. 56, https://www.rijksoverheid.nl/documenten/rapporten/2023/03/14/onderzoek-financiering-pakketreissector

[285] Response of BEUC to the targeted consultation.

[286] May 2023 targeted consultation of service providers. Most respondents indicated that they would (try to) pass 100% of any cost increases to travellers by increasing package prices. However, the estimates provided for this measure by the respondents seemed largely overstated.

represent an increase of the package price of EUR 4.4 per package or approx. 0.3% of the average package price.[287] To be noted that such a price increase would apply both in normal times and in crisis and may be slightly lower if the threshold is set at 25% instead of 20%.

On the other hand, in terms of benefits, travellers would in principle prepay only 25% at booking, compared to often higher percentages currently.[288] This implies that in case of cancellation organisers will need to refund only a smaller percentage of the package price to the travellers concerned, thus decreasing their risks of not being reimbursed. Moreover, the clarification of the permitted level of prepayment is expected to result in a qualitative improvement of the package travel industry and increased transparency, benefiting also travellers. In addition, travellers would have legal guarantees and be less dependent on the business practices of organisers.

Feedback from consumer organisations indicates that travellers prefer to sometimes pay substantially more to enjoy higher protection.[289, 290] This seems also to be confirmed by evidence from the UK's ATOL reform survey[291], showing that travellers are willing to pay more for a package compared to organising the travel themselves to benefit from the increased protection granted by the PTD, notably regarding the protection against the risks of organisers' insolvency. These examples of the travellers' willingness to pay indicate that a slight increase in price of the package, i.e. maximum 0.3%, in return for a higher protection granted by a lower prepayment will likely be accepted by travellers. Moreover, such a small price increase because of this measure will anyway be dwarfed by price increase due to the current two-digit inflation. Therefore, the measure is not expected to lead to any decrease in consumption of packages by travellers.

The size of the benefit for ***travellers*** will vary depending on the current practices in individual Member States and on the extent to which packages contain prepaid services.[292] In Member States where this would lead to changes, it would reduce the risk related to refunds and improve the liquidity position of travellers. As mentioned in Section 5, organisers request prepayments in the range of 20%-30%, increasing to 40%-70% or more where the package includes a significant flight or transport component, and reaching 100% in case of dynamic packages. Therefore, it could conservatively be estimated that the average prepayment rate would lie somewhere between 33% and 50%, depending on the composition of travel arrangements and destinations in a given year. Using the 2022 average package price, i.e., EUR 1380, as the baseline, the current average prepayment per package would be between EUR 456 and EUR 691 EUR.

The requirement to limit prepayments to 25%, unless higher prepayments are justified, makes the prepayment rate something companies can compete on more aggressively. As a result, it can be expected the average prepayment will decrease. In theory, the prepayments could go down by, on average, between 8 and 25 percentage points. However, considering that, in many cases, organisers

[287] Based on a total price increase of approx. EUR 332.1 million and an estimated number of packages of 75.0 million and average package price of EUR 1475 in 2023

[288] As indicated by consumer organisations during the consultations (e.g. PTD Workshop 1 with businesses and consumer representatives, October 2022), the practice of prepayments creates excessive financial exposure for consumers, as it was shown during the pandemic.

[289] Replies of BEUC, VZBV and DECO to Q1 of the OPC.

[290] BEUC's position paper, p. 11, https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf

[291] https://www.atol.org/news-and-blogs/2023/06/30/atol-celebrates-protecting-uk-holidaymakers-since-1973/.

[292] This measure, however, would address the identified problem only to a certain extent, as many cancellations for unavoidable and extraordinary circumstances will occur in the last 28 days before departure. Only stricter limitations would address the problem to a bigger extent but would have more negative effects on organisers.

will be able to defend higher prepayments in view of prepayment they have to make to service providers, a reduction of an average 5 percentage points is conservatively assumed, or around 70 euros per package travel arrangement compared to the baseline.[293] This would imply that average prepayments would be between 28% and 45% of the package price, i.e., between EUR 387 and EUR 622. As such, in case of a cancellation for unavoidable and extraordinary circumstances, travellers would generally need to recover a smaller percentage of the package price. This would result in a liquidity gain of approx. EUR 69.2 per package or EUR 3.8 billion per year. Considering that approximately 4.4% of travellers suffer financial loss in normal times,[294] the introduction of this measure would result in a reduction of consumer detriment of approx. 4.4% of this liquidity gain, i.e., EUR 168.7 million per year. It can be expected that in a crisis, the overall loss suffered by travellers is on average higher than outside crisis. This implies that in times of crisis the consumer benefit related to this measure would be higher than the EUR 168.7 million per year calculated for non-crisis times.

Consumer protection would thus increase, but likely against some cost increase, as specified above. Overall, however, consumers will likely be better off as a result of this measure.

Member States authorities indicated that clearer rules on pre-payments would have a positive impact on them by ensuring better enforcement.[295] On the other hand, this measure is expected to cause one-off transposition costs for ***public authorities***. These are, however, included in the overall transposition costs.[296]

Overall, in view of its limited costs and benefits, the measure is considered proportionate both with a view to crisis preparedness and outside of crisis situations.

***Measure 1.2.1 Possibility to set up a crisis fund for rapid refunds at national level***

Given its *non-mandatory* nature, the impact of this measure will depend on decisions taken at national level. Therefore, it would have no direct cost impact on companies or travellers. However, the decision of a Member State to introduce a crisis fund would obviously generate costs for package ***organisers*** as they would be required to contribute to such fund. The exact fee would still need to be determined by each Member State. As an example, Poland – who introduced a permanent crisis fund – imposed a fee of EUR 5 per package on organisers. To be noted, however, that, in addition, Poland granted State aid, of approx. EUR 68 million, to permit the start-up of this liquidity fund.[297]

Considering price level differences between countries[298], Eurostat data shows that in 2022 Poland was at 86% of the EU average. Therefore, the EU average cost per package for the crisis fund would be EUR 5.81. Taking into account the Commission's estimate for the total number of packages in the EU in 2022 of 55.4 million, the total cost of crisis funds in all EU Member States would be approx. EUR 322.3 million, considering a 100% take-up rate. However, while at present the PTD does not impede the creation of a crisis fund, only Poland decided to create such a permanent fund, and Denmark a temporary one. It is difficult to predict the number of Member States that will establish

[293] The EUR 70 liquidity gain would have a marginal impact, using an opportunity cost approach, and has not been further quantified.
[294] See footnote 58.
[295] European Commission, Workshop with Consumer Protection Cooperation (CPC) network, May 2022.
[296] Targeted survey for NCAs (regulatory and enforcement), two free-text responses to Q12: Authorities do not expect increased monitoring costs because of this measure.
[297] State Aid SA.58102 (2020/N) – Poland COVID-19 support to tour operators and other undertakings active in tourism and culture, https://ec.europa.eu/competition/state_aid/cases1/202039/287812_2191234_87_2.pdf
[298] Also known as purchasing power parity or PPP

such fund following the introduction of measure 1.2.1. Considering that only two Member States did this so far, combined with the fact that, in the consultation process, only a few Member States indicated openness to the idea of a crisis fund, suggests that not many will establish such a fund directly following the adoption of the proposal, hence keeping the costs of this measure minimal. At the same time, the introduction of measure 1.2.1, which entails an obligation to inform the Commission and the Central Contact Points should a Member State decide to set up such national crisis fund, will enable a discussion of the best approach based on real models and practical experience without imposing a crisis fund on the Member States at this stage. The Commission could thus still make such proposals in the future in light of the experience gained by the Member States. Such a flexible measure would hence be beneficial in the long-term. The overall costs of this measure will hence remain substantially below the maximum costs evoked above. In addition, in the medium and long term, the costs for such mechanisms will depend on different factors. These will include the frequency of recourse to the fund, which, in turn, will depend on the frequency and extent of future crises, how a crisis triggering the activation of a fund is defined, as well as the rate and speed at which organisers benefiting from such fund are able to pay back the amounts refunded to consumers on behalf of them, assuming that the fund will work on the basis of loans rather than grants.

As with other cost-increasing measures, such additional costs will likely be passed on from organisers to ***travellers*** in the form of price increases. It is expected that Member States would only introduce this measure if in their assessment it is cost-neutral in the long-term, i.e. consumer benefits would be (at least) equal to its costs. Such consumer benefits would stem from the fact that in case of a crisis where packages are cancelled due to unavoidable and extraordinary circumstances, travellers would receive immediate refund of their prepayments instead of waiting until organisers are able to reimburse them.

In terms of operating costs, Denmark, where a temporary crisis fund is in operation, found that costs for its set up were negligible, since the infrastructure of existing funds is used. However, its cost in times of crisis is estimated to be around EUR 700 000 annually.[299]

Overall, this measure is thus estimated to be cost-neutral in the long-term.

In case Members States wish to introduce such a crisis fund, they would need to inform the Commission and the Central Contact Points thereof. Based on the past costs for such reporting obligation and considering that only some Member State ***authorities*** would introduce such funds, the costs are expected not to exceed EUR 5,390.[300] On the other hand, this obligation will also help decrease operating costs of such funds by facilitating the sharing of best practices.

***Measure 1.3.1 Business-to-business (B2B) refund right if the relevant service is not performed***

An obligation for service providers to make a refund to organisers within 7 days of the cancellation of the service, i.e. only when a service is not provided, would have some positive impact on organisers, and indirectly travellers.[301] Organisers indicate that under the current rules they face excessive burden, which is further exacerbated in a crisis.[302] A B2B right to a refund within 7 days of

[299] Sourced from interviews by ICF with the Danish insolvency fund, whose representatives stated that in times of crisis the expenditure could go up to approx. DKK 5 million per year.
[300] Based on numbers presented in the ICF study and on Commission's own assumptions.
[301] Public consultation Q14: 37 of 507 respondents supported this policy option: 16% of EU citizens (11 of 68), 5% of public authorities (1 of 22), no consumer organisations (0 of 21) and 6% of companies and business associations (21 of 368).
[302] PTD Workshop 1 with business and consumer representatives, October 2022.

a cancelled service could help alleviate this burden.[303] While under contract law service providers would anyway have to refund prepayments for services not rendered, a B2B refund right with a specific deadline in the PTD would provide a stronger basis for organisers' receiving and claiming money back for a cancelled service. This has been indicated as an important element by organisers during consultations.

A B2B refund right if the relevant service is not performed would ***not result in any change or shift of the responsibility between the organiser and the service provider*** and the responsibility towards the traveller would remain with the organiser. As ***organisers*** do not hold travellers' pre-payments but use them to pay for travel services, a legal guarantee to be refunded by service providers within 7 days of the cancellation of their service would increase the availability of funds to cover refunds to travellers and would improve the liquidity position of organisers.[304] Such specific deadline, however, might slightly negatively affect the liquidity of certain ***service providers*** that do not already have the obligation to make refunds within 7 days. It would, therefore, not affect airlines, who must reimburse passengers within 7 days under the APRR if they cancel a flight and will continue to be subject to this obligation. It is not possible to quantify the impact of this measure. In any event, it is not expected that the introduction of this measure would result in higher costs for packages.[305]

With the proposed measure, all ***service providers*** – both established within the EU and outside – would, in principle, have to abide by this rule insofar as the law of an EU Member State applies to the contract. In practice, though, organisers based in the EU may not be able to insist on the application of EU law in a business-to-business contract with a third-country service provider[306] and to enforce a 7-day refund in relation to third country service providers.[307] At the same time, it has to be taken into account that a difference in the possibilities to enforce refunds within and outside the EU already exists at present and that a refund right for services that are not performed corresponds largely to general principles of contract law. In addition, the new provision would allow organisers to obtain a refund from (especially EU-based) service providers more easily (and quickly) than currently, as, in view of their smaller bargaining power they are often not able to agree to mutually beneficial contract terms with service providers such as airlines. This will, in turn, put package organisers in a better position to refund travellers, thus having a positive impact on organisers' competitiveness. This may hence improve the position of organisers compared to the status quo to some extent in relation to EU service providers and to a lesser extent in relation to third country service providers. Moreover, whilst overall competitiveness would be unchanged, the obstacle to recovering funds easily from non-EU countries, as long as it is not addressed (e.g. through bilateral agreements between the EU and the third country concerned), could lead organisers to choose the services of EU providers, such as airlines, over non-EU service providers for inclusion in packages that they offer. As a result, this may in the longer-term lead to an improvement of the competitive

[303] However, in their reply to the May 2023 targeted consultation, a representative organisation of package organisers reported not expecting big improvements from this measure and indicated that it would prefer a B2B refund right in all cases.
[304] The lack of B2B refund rules was mentioned by stakeholders as one of the key drivers for the impossibility to refund travellers during the Covid-19 pandemic, PTD Workshop 1 with businesses and consumer representatives, October 2022
[305] According to a response of an organiser to the May 2023 targeted consultation, a B2B refund right within a 7-day deadline is not expected to lead service providers to include a risk premium which would raise the costs of packages.
[306] Under Article 3 of Regulation (EC) No 593/2008 of the European Parliament and the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) the fundamental principle is the freedom of the parties to choose the applicable law.
[307] The respect, or not, of the 7-day deadline for the B2B refund would not influence the legal deadline for the organiser to refund the traveller within 14 days, already enshrined in the PTD.

position of EU service providers. In addition, it may encourage third country service providers wishing to operate within the EU to establish a representative office and/or a subsidiary in the EU.

This measure would hence have a neutral or slightly positive overall economic impact on ***businesses as a group*** (both organisers and service providers) and should not result in any cost increases.

***Travellers*** would also indirectly benefit from the proposed measure in terms of quicker refunds, as the measure would make it easier for organisers to provide such refunds within the 14-day deadline set in the Directive. Experiences with reimbursements in the pandemic demonstrates that it is not clear, though, whether these deadlines would be able to be respected in case of such widespread disruption.

There would be no impact on ***public authorities***.

***Measure 1.4.1 Voluntary vouchers at all times***

The introduction of voluntary vouchers[308], i.e. vouchers that could be emitted by organisers subject to specific acceptance by travellers, would have a positive impact on the liquidity of ***organisers***. Upon cancellation of a package, they would not need to refund travellers accepting the voucher within 14 days, but either would propose a different package during the validity period of the voucher or would have to provide cash refunds only at the end of the validity of the voucher. However, the size of this effect would depend on the acceptance rate of vouchers by travellers.[309] According to the responses to the Public Consultation, for most EU citizens, public authorities and consumer organisations, the PTD should specify that organisers may issue vouchers instead of a refund within 14 days, provided that a) travellers agree and b) there is a guarantee that travellers will receive their money back if the voucher is not used within its validity period, and c) that vouchers have to be protected against the insolvency of the issuer. 50% of companies and business associations agreed with this statement, while 47% disagreed.[310, 311]

In addition, certain guarantees included in the potential rules on vouchers, including the fact that they would be covered by insolvency protection under measure 2.1 (discussed below) and that they would be informed on this fact under measure 1.4.1, would make vouchers more attractive and are likely to increase the acceptance rate. The costs for businesses related to the introduction of this measure, if any, are expected to be minimal.

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[308] In line with the 2020 Recommendation.

[309] 33% of travellers agreed that they would accept a voucher instead of a refund in relation to delayed travel arrangements (Consumer survey, 2022, published on 27 March 2023: https://commission.europa.eu/strategy-and-policy/policies/consumers/consumer-protection-policy/key-consumer-data_en). See also Annex 13, Evaluation, EQ 5, *Vouchers*: Consumer organisation outlined that travellers were sometimes given a voucher/credit note although they would have preferred a refund - public consultation Q41: 18 of 21 (81%) of consumer organisations and 11 of 19 (58%) public authorities. Furthermore, in replies to the businesses survey, businesses indicated that between 30% and 50% of travellers accept vouchers. However, in reply to a survey among more than 10,000 individual consumers undertaken for the ICF support study ("Targeted consumer survey"), while 42% of the respondent indicated that they would accept a voucher in a crisis situation, 58% stated that they would refuse vouchers.

[310] Public consultation Q12: 66% (44 out of 67) of EU citizens, 83% (19 out of 23) of public authorities, and 76% (16 out of 21) of consumer organisations. 50% (182 out of 367) of business respondents (aggregated companies and business associations) agreed with this statement, while 47% (172 out of 367) them disagreed.

[311] Interview conducted by ICF: a Norwegian consumer organisation explained that vouchers may not represent a good solution, especially concerning their expiration date, as consumers may decide not to book another trip within that set timeframe.

If Member States decide to introduce a rapid refund mechanism (measure 1.2.1), voluntary vouchers (measure 1.4.1) would be less relevant as a means of alleviating a liquidity crisis. Indeed, travellers are unlikely to accept vouchers if they can obtain immediate refunds through a rapid refund mechanism, thus decreasing the effectiveness of measure 1.4.1.

The introduction of rules on vouchers is not expected to create costs for ***travellers*** and would instead add clarity on their rights. Travellers will not be forced to accept vouchers but may accept them depending on how urgently they need their money back.

This measure would harmonise diverse national rules and practices, thus creating stronger cohesion in the internal market.[312] It would also increase coherence with the APRR, which has rules on vouchers.

To address Problem 2, Option A would contain ***Measure 2.1 - strengthened rules on national insolvency protection, including the coverage of vouchers and refund claims by insolvency protection and a reference to the possibility of setting up an insolvency back-up fund at national level***.

This measure aims to ensure the achievement of an effective insolvency protection system, including in times of crisis. It would also make it clear that in all Member States refund claims and vouchers related to cancelled packages would be covered by insolvency protection both at normal times and in a crisis.

In this way, it will bring clear benefits for the protection of pre-payments from travellers, in Member States where there are currently gaps in the protection and would enhance the comparability of protection levels in the Member States, thus levelling the playing field for organisers in the internal market.

The obligation of effective insolvency protection and covering all reasonably foreseeable costs is already provided in the current PTD. However, the provision to be added would aim to facilitate the achievement of this objective. Indeed, several of the parameters to be inserted into the provisions on insolvency protection are already used by some ***Member States***. For instance, some Member States already apply minimum percentages of annual turnover to be covered, sometimes in addition to other criteria.[313,314] Exposure analysis will be carried out by many insolvency protection providers.[315] Some Member States already have back-up funds in addition to first line insolvency protection. Since the obligation to establish an effective insolvency protection system already exists today, any additional measures taken by the Member States to reach this objective cannot be seen as an additional burden created by the amendment. Moreover, any additional cost for the national insolvency protection systems in some Member States must be calculated against the very real risk of State liability for ineffective protection of travellers through national systems, as numerous CJEU cases from the past demonstrate. It is hence not sure that this measure would increase net cost for Member States.

[312] Harmonisation could also decrease costs for traders who would face the same conditions in all Member States.
[313] Annex 13, Evaluation, EQ3 and Appendix X. Overview of national insolvency protection systems. E.g. Croatia, Czech Republic, Estonia, Finland, Lithuania
[314] Stakeholders were divided, whether such minimum percentages should be made mandatory. Targeted business survey Q31: 41% (9 of 22) agreed, 27% (6 of 22) disagreed, 32% (7 of 22) did not know.
[315] Business stakeholders were divided on the question whether the PTD should specify that Member States must require that insolvency protection covers a sufficiently large share of the organiser's turnover to ensure that an insolvency at the period of the year with the highest risk exposure is fully covered. Targeted business survey Q31: 27% (6 of 22) agreed, 36% (8 of 22) disagreed, 36% (8 of 22) did not know.

Should Member States decide to introduce national insolvency back-up funds, such funds may be financed through contributions from ***organisers***. It could be considered that a fee of EUR 5 per package could be reasonable in such case. This seems to be in line with the fee requested by the Polish fund.[316] This is a conservative cost assumption, since e.g., the UK charges a flat rate of GDP 2,5 (approx. EUR 2.92) for fully-fledged insolvency protection.[317,318]

Under the proposed measures, vouchers and pending refund claims would be covered by insolvency protection. The Commission saw a risk that claims under Article 12 would not be covered in the context of Article 17(1), for instance, in the 2020 Recommendation and in the PTD Application Report.[319] Moreover, the current practice in the Member States varies. Indeed, six Member States replying to the consultation activities already cover vouchers and/or refund claims by insolvency protection up to a certain extent, while six do not.[320] In addition, the CJEU is still to rule on this issue in two pending requests for a preliminary ruling.[321] As a result, introducing a rule in the PTD providing that vouchers and refund claims are to be covered by insolvency protection would provide clarification benefits. Furthermore, it would provide indirect benefits to companies by creating a level playing field across the EU and by making vouchers, which help maintain the liquidity of organisers, more attractive for travellers.[322] Indeed, a big percentage of the respondents to the consumer survey indicated that they do not trust vouchers.[323] Covering vouchers and refund claims by insolvency protection would increase such trust and could lead to a higher acceptance rate. Most stakeholders agree with introducing in the PTD rules on vouchers applicable at all times.[324] Most ***consumer organisations*** and public authorities and a minority of businesses were in favour of covering vouchers and refund claims by insolvency protection.[325]

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[316] Poland charges organisers EUR 5 per package for the insolvency protection back-up fund. Furthermore, since 2021, in addition to the normal contribution of organisers – based on a percentage of yearly turnover – to the insolvency fund SGR, travellers must pay an additional contribution of EUR 5 per package, for packages whose value exceeds EUR 150.

[317] See footnote 291

[318] EUR = 0.856 GBP based on the ECB exchange rate of 24/08/2023. https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eurofxref-graph-gbp.en.html

[319] The 2020 Recommendation: "*(14) If organisers or carriers become insolvent, there is a risk that many travellers and passengers would not receive any refund at all, as their claims against organisers and carriers are not protected.*" The 2021 Application Report, section 5.2.5. Insolvency protection: "*The question arose whether pending claims for reimbursements from travellers were covered by the insolvency protection systems provided in accordance with the PTD. Article 17(1) PTD requires organisers to provide security for the refund of all payments made by the traveller "insofar as the relevant services are not performed as a consequence of the organiser's insolvency". The Commission considered in its Recommendation 2020/648 that, if organisers become insolvent, there is a risk that many travellers would not receive any refund, as their claims against organisers are not protected*."

[320] Targeted survey for NCAs (insolvency protection), Q8: 12 responses from HU, CY, LV, EE, HR, DE, AT, SE, IS, DK, FI, PT. 6 authorities (5 MS and Iceland) replied that the current rules on insolvency protection in place in their country cover vouchers and/or refund claims (for cancelled packages) to a certain extent. In general, this protection has ensued in the context of the COVID-19. In addition, Ireland confirmed during a meeting with the EC that vouchers and refund claims were covered by the rules on insolvency protection. Only Denmark, Estonia and Ireland seem to fully cover vouchers.

[321] The interpretation of Article17(1) in this respect is raised in two pending requests for preliminary rulings from Austria and Belgium in cases C-771/22 HDI Global and C-45/23 MS Amlin Insurance.

[322] It was also requested in the Fit for Future Platform Opinion, 22 March 2022, https://commission.europa.eu/system/files/2023-04/Final%20opinion%202021_SBGR3_15%20Package%20travel_fup_0.pdf.

[323] Targeted survey for consumers Q14, N=10152: 58.0% of all responding consumers, and 76.9% of those that would not accept a voucher instead of a refund, indicated that they do not trust vouchers.

[324] See footnote 310 for the replies to this question in the public consultation.

[325] See footnote 128 for the replies to this question in the public consultation.

At the same time, this measure might have a cost impact in jurisdictions that currently do not impose such coverage. No detailed information on the cost burden of this measure was provided by stakeholders, and it was not possible for the Commission to quantify them precisely on the basis of the available data. However, such costs seem reasonable.[326] The costs for covering refund claims and vouchers can be expected to be higher in periods of a major crisis. [327,328] However, the available data shows that even in times of crisis, funds covering vouchers against insolvency protection do not seem to encounter high operational costs.[329]

To address Problem 3, Option A would include the following measures: deletion of both types of LTAs (3.1.1), clarification on cancellation rights and case-by-case assessment of travel warnings (3.2.1), and clarification of the role of the parties (3.3.1).

***Measure 3.1.1 LTAs type (a)[330] to be deleted, while the definitions of click-through package and single-point-of-sale package and of LTAs type (b) would be adapted.***

**Some *business stakeholders*** report that currently they are unable to identify anyone as LTA type (b) provider and stakeholder have stated that travellers should be informed about insolvency protection for LTAs only in cases where such protection exists.[331] Under the proposed measure, the definition would be limited to situations where a trader that is party to a first contract invites a traveller to book additional types of travel services for the same trip or holiday and receives payments from or on behalf travellers. Furthermore, for traders to know that they are subject to this obligation, they would recommend travellers in the information form on linked travel arrangements to record the invitation to book additional travel service and the additional booking and to inform the trader with whom a first contract was concluded that a contract on an additional type of travel service has been concluded for the same trip or holiday within 24 hours following the invitation. To allow for this, the trader

[326] Targeted survey for business associations, Q18, N=10: in relation to the question if the costs of coverage of vouchers by insolvency protection would be reasonable, 1 company strongly agreed (10%), 2 tended to agree (20%), 4 strongly disagreed (40%) and 3 did not know (30%); in relation to the costs of covering refund claims being reasonable: 2 respondents tended to agree (20%), 5 strongly disagreed (50%) and 3 did not know (30%). Targeted survey for NCAs (insolvency protection), Q4, N=11: in relation to the question if the costs of coverage of vouchers by insolvency protection during major crisis would be reasonable, 1 respondent strongly agreed (9%), 4 tended to agree (36%), 1 tended to disagree (9%) and 5 did not know (45%); in relation to the costs of covering refund claims being reasonable: 4 respondents tended to agree (36%), 1 tended to disagree (9%), 1 strongly disagreed (9%) and 5 did not know (45%).

[327] Public consultation, Section VI. Additional questions for providers of insolvency protection, open text Q68. When asked about the impact of this measure on fees and premiums, two insolvency protection providers predicted large increase, three predicted no or only marginal increase, however two of these specified that this would be higher in major crisis situation. Rest of the 11 who added comments to Q68 did not include a clear reply to this question.

[328] See previous footnote. Furthermore, this assumption is based, among other things, on the reasoning in point 26 (c) of the State aid decision in the case SA.62271 (2021/N) – COVID-19: SGR voucher credit facility, which shows that the margin for a liquidity loan on market terms in a such case would be very high. Nevertheless, it is not possible to extrapolate the information from this decision to predict the costs for the coverage of vouchers (and refund claims) by insolvency protection for individual organisers in all Member States. This is also due to the differences in insolvency systems and in market conditions.

[329] Based on the data for the year 2020 from the Danish fund, which also covers vouchers, and based on Commission's own calculations, the implied price of insurance (operational) cost is 0,06% of the average package price during crisis times.

[330] This refers to the LTAs defined both in Article 3(5)(a) and 3(5)(b).

[331] Public consultation Q27: According to 36% of business associations (18 of 50), 18% business organisations (41 of 232) and 40% of consumer organisations (8 of 20), in the information forms (Annex II, Parts A, B and C), travellers should be informed about insolvency protection before concluding the contract only in cases where they will actually benefit from such protection, in order to avoid false expectations. According to 40% of business associations (20 of 50), 24% business organisations (56 of 232) and 55% of consumer organisations (11 of 20), where travellers benefit from insolvency protection, they should receive confirmation on this protection and its limits after the conclusion of the contract, so that they can invoke it, if necessary.

would need to make available to travellers a facility, such as an email address or a website, where travellers can register such information and shall acknowledge receipt of such information. [332] While this may bring about minor hassle costs for travellers, it will allow them to benefit also in practice from insolvency protection that LTAs type (b) are supposed to offer. The overall impact on them would thus be positive. For traders, this additional obligation may introduce minor one-off costs to create and make available an email address or webform for such contacts, in cases where they do not already have them. In addition, they would face minor costs for sending the acknowledgments of receipt each time that a traveller provides them with such information. As a result, the overall impact of the changes on traders would be minimal. Moreover, in this way, traders will have more clarity on the volume of LTA sales for which they have to obtain insolvency protection and the increased clarity should lead to savings for traders over time. Limiting the requirement to provide information on insolvency protection for LTAs is not expected to increase operational costs and would be positive for travellers.[333] No cost data was received as to how changes to the definition of click-through package could impact ***service providers***.

Deleting LTA type (a) and treating the purchase of different types of travel services for the same trip or holiday at one point of sale during the same visit or contact as packages (currently considered as LTAs) in the same way as 'services purchased from the same point of sale and those services have been selected before the traveller agrees to pay' (currently in the definition of package under Article 3(2)(b)(i)) would bring about significant simplification, in terms of the substantive rules and information requirements and would remove the current grey zone or circumvention potential between packages and LTAs type (a). At the same time, the criterion of a single visit or contact would be replaced with a specification of a short time window within which the transactions are concluded. Those changes would bring benefits for all stakeholders and would help in the pursuit of the objectives of a high level of consumer protection and a better functioning of the internal market in the area of package travel. Many stakeholders were in favour of such simplification.[334] However, this may result in some costs for companies which would find it more difficult to avoid liability as package ***organiser***. However, also currently, avoidance of a package is not possible, legally speaking, if one of the criteria of a package is met (e.g. if there is an inclusive or total price or if there is a selection of different travel services at one point of sale before the traveller agrees to pay)[335]. Furthermore, any additional costs for non-complying businesses cannot be taken into account.

This measure is not expected to result in direct costs for ***travellers***. Benefits could arise from the simplification and increased legal certainty and better enforceability of their rights. Simplification and increased clarity could facilitate enforcement and thus reduce burden on authorities. Moreover, deleting LTAs type (a) would reduce administrative burden as travel businesses will spend less time

[332] Public consultation Q29, N=405: the majority of respondents support either abandoning the LTA type (b) and replacing it with simpler rules (22% or 89 respondents) or receiving official guidance on the interpretation of the definition of LTA type (b) (additional 35% or 141 respondents). The majority of consumers and consumer organisations (65% or 53 of 81) and public authorities (77%, 17 of 22) are in favour of such solutions, as are 49% of businesses and business organisations (137 of 280). Only few respondents consider that no changes are necessary (26, 6%).

[333] Public consultation Q27: According to 40% of consumer organisations (8 of 20), in the information forms (Annex II, Parts A, B and C), travellers should be informed about insolvency protection before concluding the contract only in cases where they will actually benefit from such protection, in order to avoid false expectations. According to 55% of consumer organisations (11 of 20), where travellers benefit from insolvency protection, they should receive confirmation on this protection and its limits after the conclusion of the contract, so that they can invoke it, if necessary.

[334] Public consultation Q27 and Q29: 42% of all respondents (171 of 410) are in favour of abandoning LTAs type (a) and 61% of respondents (246 of 405) are in favour of abandoning the LTAs type (b), with or without substitute rules. Only few respondents consider that no changes are necessary (26, 6%). Over 60% of public authorities are in favour of abandoning both types of LTAs. See footnote **Error! Bookmark not defined.**.

[335] According to Article 3(5), there can be an LTA only if a combination of travel services does not constitute a package.

choosing the right information form. Out of the currently five information forms for LTAs, three would be removed. This gain could reach at least EUR 181.4 million per year.[336] It may however entail one-off adjustment costs for companies to get to know the new provisions, estimated at EUR 6.5 million.[337] Simplification regarding LTAs, as well as regarding the pre-contractual information to be provided to travellers. are also two of the suggestions of the Fit for Future platform.[338]

***Measure 3.2.1 Specifications on cancellations due to unavoidable and extraordinary circumstances: taking into account the country of destination and departure and travel warnings being an important element for the presence of unavoidable and extraordinary circumstances. There would still be scope for a case-by-case assessment.***

No data was received from stakeholders to estimate the financial benefits from the clarification that travel warnings are an important element to determine whether unavoidable and extraordinary circumstances have occurred. Anyhow, such benefits are likely to be limited. While the CJEU has not yet ruled on this question, national courts already include travel warnings in the case-by-case assessment of cancellations due to unavoidable and extraordinary circumstances and travel warning have *de facto* an important role in that respect. One benefit for ***travellers*** would be that the mere absence of a travel warning could not in practice lead to an automatic denial of a cancellation without fees or alternative arrangements. Benefits will be related also to the clarification that the situation in the country of departure, residence and destination may be taken into account to determine whether there are unavoidable and extraordinary circumstances that affect the performance of the package. Negligeable cost increases due to the inclusion of the circumstances in the place of departure in the assessment might arise for ***organisers***, although they may in practice already be recognised by many courts. This clarification may somewhat decrease (litigation and non-refund) costs for travellers. Both clarifications may, to some extent, improve the effectiveness of enforcement by competent ***authorities***, thus leading to some savings in the medium run. In the short-term, the relevant national provisions may need to be adapted, potentially creating one-off transposition costs.

***Measure 3.3.1 Clarification on the role of different parties***

Under this measure, the roles of the parties would be further clarified. The compulsory information form would specify more clearly the roles and obligations of each party and would help achieve a better understanding. This would help ***travellers*** to reduce the time looking for information on who is the right party to contact in case of modifications or cancellation of a package. From the evaluation it appears that 33% travellers did not know who to contact for a refund during the COVID-19 crisis. Based on the ratio of cancelled flights between March – May 2020, the number of cancelled packages in the same period would be approx. 4 million. For 33% of these cancellations, i.e. approx. 1.34 million cancellations, there was a time loss while trying to get a refund. It seems reasonable to assume that this time loss was between 1 and 3 days per cancelled package. Therefore, between 1.34 million and 4 million days would have been lost by travellers at EU level in finding the right party to claim refund between March and May 2020. It is expected that the introduction of Measure 3.3.1 would lead to a reduction of consumer detriment by 50%, thus resulting in reduction of time loss between 664,894 and 1,994,682 days. However, such time loss will most likely consist mainly of frustration

[336] Assuming a gain of 5 minutes per booking for choosing the right form and based on own calculation of the expected number of bookings for 2023 and wage assumptions made by the consultant in the supporting study.
[337] If each company needed 2 hours to do so and based on the assumptions on the number of companies and on the wages made by the consultant in the supporting study.
[338] Fit for Future Platform Opinion on PTD, 22 March 2022, Suggestion 2: Clarification of scope and simplification of the definitions of package and Linked Travel Arrangements, and Suggestion 3: Clarification of pre-contractual information requirements (Art 5), https://commission.europa.eu/system/files/2023-04/Final%20opinion%202021_SBGR3_15%20Package%20travel_fup_0.pdf

for travellers and not translate directly into a loss of income. Considering that in practice it can be estimated that between 1 and 3 hours would have been spent by consumers trying to identify whom to contact during the period March-May 2020, this would have represented an income loss of between EUR 38.6 million and EUR 115.7 million. As a result, Measure 3.3.1 is expected to result in a reduction of ***consumer*** detriment by 50%, i.e., between EUR 19.3 million and EUR 57.8 million.

For ***organisers***, this measure could further contribute to the ease of doing business, with a negligeable administrative impact. Moreover, it could support the work of ***national enforcement bodies*** without any direct cost for them. It would also address one of the recommendations of the Fit for Future Platform.[339]

Option A is not expected to have any additional **social impact**.

***Overall impact of Option A***

**Effectiveness : +++**

*0 (no change) + (somewhat effective) ++ (Moderately effective) +++ (Effective) ++++ (Very effective) +++++ (Extremely effective)*

A flexible limitation of prepayments would be to a certain extent effective in addressing Problem 1, as it would decrease the amount to be reimbursed where the package is cancelled before the final payment, making it easier for the organiser to refund the prepayment.[340] The introduction of a voluntary rapid refund mechanism would allow timely refunds to travellers in case of a liquidity crisis, thus very effectively addressing Problem 1 if it is indeed introduced. An explicit 7-day B2B refund right upon cancellation of the relevant service would make it easier for organisers to refund prepayments to travellers within the 14-day deadline without endangering their liquidity. The effectiveness of the measure on voluntary vouchers in relation to maintaining the liquidity of organisers in a crisis will depend on the acceptance rate by travellers. Such acceptance will be increased by attractive conditions relating to vouchers, as set out in this measure and under measure 2.1. However, regardless of the acceptance rate, this measure would be fully effective in providing legal certainty and clear information on the use of vouchers and would thus strengthen the rights of travellers in relation to refunds.

Businesses interviewed highlighted the need for more harmonisation between national insolvency protection systems. The clear cover of vouchers and refund claims under measure 2.1 would strengthen insolvency protection, including in a crisis, for the benefit or travellers, and enhance harmonisation with benefits for travellers and furthering the level playing field for businesses (thus addressing Problem 2, but also Problem 1). Otherwise, the harmonising effect is more indirect as Member States would continue to decide on the specific way in which to achieve effective insolvency protection. In this respect, effectiveness will thus depend on whether Member States decide to strengthen their national systems, for instance, by adding a back-up fund to an insolvency protection system based on insurance policies. Since Option A would facilitate stronger insolvency protection, it would help address Problem 2. To be fully effective, this measure would have to be combined with

[339] The lack of transparency on the roles was evoked in the Fit for Future Platform Opinion, recommending the provision of better information on the identity of the contractual partners and on contact details, together with better enforcement of rules (Suggestion 1).

[340] This measure may be only partially effective in addressing SO1 in case of a major crisis. A similar system was in place in Germany before the COVID pandemic and it is not clear whether the German organisers were in a better position to refund their clients than in similar markets where no prepayment limitation existed.

the Commission's monitoring of the national insolvency protection systems, which is part of the baseline.

By the changes in the definitions of package and LTA, travellers would benefit from a clearer definition of package and from a reduced scope for circumvention of the rules on packages by traders. At the same time, information for travellers would be simplified, benefitting travellers and organisers. This would simplify the PTD significantly and would considerably facilitate enforcement. The measure would hence be effective in achieving SO3, and substantially more effective than the status quo. The clarification that travel warnings are an important element in the assessment of unavoidable and extraordinary circumstances, while maintaining the case-by-case assessment of the circumstances, would be more effective in addressing Problem 3 than the status quo, even though this effect would be limited. The additional clarification that not only the situation at the destination, but also at the place of departure should be considered for such case-by-case assessment is likely to address Problem 3 effectively. Most of the proposed clarifications correspond to what is expected to be developed by the CJEU case law but would be more transparent for the benefit of all parties if reflected in the text of the PTD. The proposed clarifications on the role of the parties will be somewhat effective in addressing Problem 3.

**Efficiency**

Wherever possible, the benefits and costs were quantified. Where no sufficient data was available for quantification, a qualitative assessment of costs and benefits was undertaken. Therefore, the quantified cost-benefit assessment is only partial and had to be combined with the qualitative assessment to reach a final assessment.

For the quantified costs and benefits both the net benefits and their Net Present Value ("NPV") were calculated. For the qualitative assessment, scores between 0 and +5 for the benefits, and between 0 and -5 for the costs, were assigned to all impacts. These scores were aggregated to show the net benefit.[341]

The efficiency in terms of costs and benefits of the measures included in Option A are depicted in the table below. More detailed calculations can be found in Annex 10.

[341] To be noted that the values were normalised, i.e., represented as a proportion of the same base value, in order to allow for comparison.

| Benefits and costs in EUR million | One off | Recurring | Methodology |
|---|---|---|---|
| **Benefits** | | | **Qualitative assessment scale: 0-5** |
| Measure 1.1.1 Flexible limitation of prepayments - benefit to consumers - reduction of consumer detriment in view of lower prepayment (liquidity gain) | | **168.7** | Reduction of 5 percentage points of the average prepayments for packages on 4.4% of packages affected (in normal times) by financial loss. |
| Measure 1.2.1 Possibility to set up a crisis fund at national level | | | Qualitative assessment: 1. With a 100% uptake, the costs would be EUR 322.3 million, but uptake is expected to be low and hence costs minimal. Operating costs in times of crisis: EUR 700k/year. Cost-neutral in the long-term. |
| Measure 1.3.1 Business-to-business refund right - benefit to customers - reduction of consumer detriment in view of timelier refunds | | | Qualitative assessment: 2 |
| Measure 1.3.1 Business-to-business refund right - benefit to business - increased liquidity for organisers | | | Qualitative assessment: 3 |
| Measure 1.4.1 Voluntary vouchers - clarification benefit for consumers | | | Qualitative assessment: 1. |
| Measure 1.4.1 Voluntary vouchers - positive impact on liquidity organisers | | | Qualitative assessment: 3. The size of the positive impact on organisers would depend on the acceptance rate of vouchers by travellers; 81% of consumer organisations would have preferred a refund. |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - benefits for consumers | | | Qualitative assessment: 3. Coverage vouchers and refund claims and potential back-up fund improves consumer protection. |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - benefits for organisers | | | Qualitative assessment: 0. Coverage vouchers will increase acceptance rate and improve iquidity of organisers (liquidity gains for organisers through higher acceptance rate taken into account under 1.4). |
| Measure 3.1.1 LTAs (OIOO) - benefit for businesses | | **181.4** | Significant simplification for organisers and fairer competition |
| Measure 3.1.1 LTAs - benefits for consumers | | | Qualitative assessment: 4. Clarification benefits and less circumvention of rules, higher consumer protection. |
| Measure 3.1.1 LTAs - benefits for authorities | | | Qualitative assessment: 3. easier enforecement for MS authorities. |
| Measure 3.2.1 Specifications on cancellations - consumers | | | Qualitative assessment: 1. Some clarification benefits. |
| Measure 3.2.1 Specifications on cancellations - MS | | | Qualitative assessment: 1. Some clarification benefits & easier enforcement. |
| Measure 3.2.1 Specifications on cancellations - organisers | | | Qualitative assessment: 1. Some clarification benefits. |
| Measure 3.3.1 Clarification on the role of different parties - benefit to organisers | | | Qualitative assessment: 0. Increased ease of doing business. |
| Measure 3.3.1 Clarification on the role of different parties - benefit to consumers - reduction in consumer detriment | | **38.6** | Expected reduction of consumer detriment between EUR 19.3 million and EUR 57.8 million (on average EUR 38.6 million) |
| **Total Benefit** | **-** | **388.7** | - |
| | | | |
| **Costs** | | | |
| Measure 1.1.1 Flexible limitation of prepayments - lower prepayments (cost pass through from organisers to travellers - increased prices ) | | **332.1** | High-level estimate of the cost increase for organisers: 3%. This will be fully passed through to consumers, resulting in a price increase of EUR 15 per package (approx 1% of the package price). |
| Measure 1.1.1 Flexible limitation of prepayments - lower prepayments - cost pass through - increased prices - impact on number of packages sold through price elasiticty (sales organisers) | | | Qualitative assessment: 1 |
| Measure 1.2.1 Possibility to set up a crisis fund at national level | | **-** | Qualitative assessment: 1. With a 100% uptake, the costs would be EUR 322.0 million, but uptake is expected to be low and hence costs minimal. Operating costs in times of crisis: EUR 700k/year. Full pass-through to consumers. Cost-neutral in the long-term |
| Measure 1.3.1 Business-to-business refund right - impact on service providers | | **-** | Qualitative assessment: 1. Might slightly negatively affect the liquidity of certain service providers; not expected that this would lead service providers to include a risk premium which would raise the costs of packages. |
| Measure 1.4.1 Voluntary vouchers - costs for organisers | | **-** | Qualitative assessment: 0. Costs, if any, expected to be minimal. |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - organisers | | | Qualitative assessment: 0. Some MSs have back-up funds; obligation to create insolvency protection system already exists, any additional measures cannot be seen as an additional burden; 30% of businesses - costs of covering vouchers and refunds would be reasonable; 40% not; If there are any costs, likely 100% pass-through to travellers. |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - costs for consumers | | | Qualitative assessment: 1. If there are any cost increases, likley 100% pass-through from organisers. |
| Measure 3.1.1 LTAs - cost to business - familiarisation (OIOO) | **6.5** | | one-off familiarisation cost for businesses |
| Measure 3.2.1 Specifications on cancellations | | **-** | Qualitative assessment: 0. Negligeabe cost increases for organisers, if at all. |
| Measure 3.3.1 Clarification on the role of different parties - businesses | | **-** | Qualitative assessment: 0. Negligeable one-off administrative impact. |
| For all measures taken together - cost to administrations - transposition + information | **0.1** | | |
| **Total Cost** | **6.6** | **332.1** | |
| **Net Impact (Total Benefit - Total Cost)** | **- 6.6** | **56.6** | |
| **Benefit Cost Ratio (Total Benefit / Total Cost)** | | **1.2** | |

The burden on companies overall would remain limited with a flexible limitation of prepayments, while only slight price increases for travellers are expected. According to the stated preferences of consumers[342], they would seem willing to accept certain price increases in return for higher protection.[343] A provision specifying that Member States may put in place rapid refund mechanisms would be cost-neutral in the longer-term. With a B2B refund right only if the service is not performed, the burden on companies as a group would be very limited. Voluntary vouchers would increase organisers' liquidity, while creating only very limited administrative burden on companies and public authorities from the implementation of the measure.

[342] See footnotes **Error! Bookmark not defined.**, **Error! Bookmark not defined.** and 291.

[343] To be noted, however, that in view of the high price elasticity of travel services, some impact on sales to the economically weakest travellers cannot be fully excluded. See also Annex 8.

As the PTD already requires effective insolvency protection and, considering that Option A would only further specify how this objective can be achieved, this aspect of Option A is not likely to increase costs. However, it may in practice lead to increased insolvency protection costs for companies in some Member States because vouchers and refund claims would need to be covered, which could imply an increased duration for the coverage of the perceived risks. Such cost increases may be passed on to travellers. At the same time, this measure will benefit organisers in that it will make vouchers more attractive for travellers and would lead to increased costs for insolvency protection only insofar as many vouchers are issued or if many refunds are delayed in a crisis. Overall, cost increases are thus likely to be limited. Since Option A would be effective in addressing Problem 2, it is efficient.

Deleting type (a) LTAs and covering in the definition of package may entail some one-off costs but would bring clear benefits to all stakeholders in view of substantial simplification in terms of the substantive provisions and information requirements. The clarifications in relation to cancellations and the role of the parties will have limited benefits for stakeholders, with potentially only limited costs. Option A would hence be more efficient than the status quo.

Taking into account both the Net Present Value ("NPV") of the net quantified benefits and costs, and the efficiency scores determined qualitatively, Option A arrives at a normalised[344] efficiency score of 0.14.[345]

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | Average efficiency |
|---|---|---|---|
| **A** | 0.03 | 0.25 | **0.14** |

**Coherence** Score: *1 (from -2 to +2)*

The flexible limitation of prepayments for package organisers takes into account the rules and practices applying to service providers, including under the EU passenger rights regulations, and avoids incoherence with them. At present, there are no rapid refund mechanisms for standalone tickets under the APRR, but since option A does not impose them, while the current PTD does not exclude them, this measure would not raise coherence issues. A 7-day B2B refund right in case of cancellation of services would ensure coherence with the preferred option for the modification of the APRR on refunds to intermediaries in similar situations. In addition, rules on voluntary vouchers at all times would increase coherence with the APRR, where already today airlines may compensate passengers in the form of vouchers with the signed agreement of the passenger in case of denied boarding, cancellation or delay.

With the introduction of measure 2.1, the coherence with other policies would not change. There are no rules on insolvency protection for carriers in the passenger rights regulations. This discrepancy could be removed only through changes in the transport legislation, which is outside the scope of the PTD.[346]

[344] Normalization of scores means adjusting the values measured on different scales to a notionally common scale.
[345] For details, please see the calculations in Annex 10.
[346] This has also been recognised by numerous stakeholders who have indicated on several occasions that similar rules (e.g., mandatory insolvency protection for airlines) should also be included in the APRR and/or Air Services Regulation.

The changes in the definition of package and LTA would not lead to a change in coherence with other policies. If improvements on cancellation rights were introduced in the APRR, this would enhance coherence between these policies. However, this cannot be achieved through changes in the PTD.[347]

## 6.2. Economic and social impacts of Option B

Option B is composed of the following measures addressing Problem 1: strict limitation of prepayments to organisers (1.1.2), and mandatory vouchers in times of crisis (1.4.2).

### *Measure 1.1.2 Strict limitation of prepayments to organisers*

Introducing a stricter threshold of 20% for the prepayments would be justified by the fact that this is the lowest average level of prepayments observed in one of the Member States.[348] However, reducing the maximum prepayments to that level without any possibility to increase them, would result in bigger liquidity risks for package ***organisers***, considering that they would not be able to limit prepayments to service providers. This impact may be particularly strong for SMEs, representing 99% of organisers, as they generally have fewer resources available than large enterprises. As this measure is more difficult to enforce in relation to third country organisers it could result in a competitive disadvantage for EU organisers.[349] Most businesses estimated that limitations to prepayments would increase the costs of packages by at least 5%.[350,351,352] Such increases would be passed on to ***travellers***, resulting in corresponding price increases for packages of EUR 553.5 million, or EUR 7.4 per package (i.e. 0.5% of the average package price). In addition, industry representatives allege that the offer in packages available to travellers would be reduced. It was not possible to estimate on the basis of stakeholder replies if, and to what extent, this would lead to a decrease in purchases of packages. However, as described in Annex 8, and sourced from the replies to the May 2023 targeted survey, the average price elasticity for European Tourism is -1,29, which implies that the sector is very price sensitive. Therefore, there might be a negative impact on the sales of package ***organisers*** due to increased package prices. No impact on ***service providers*** is expected, as they could continue selling standalone travel services should it become uninteresting for them to include their services in packages.

On the other hand, for ***travellers***, the likely price increases would coincide with certain benefits, as this measure would allow them to part with their money later and reduce the amounts to be refunded

[347] This has also been recognised by numerous stakeholders who have indicated on several occasions that similar rules (e.g., similar cancellation rights in case of unavoidable and extraordinary circumstances) should also be included in the APRR.

[348] Source: Workshop with experts from national authorities on 5 December 2022, Minutes available at https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=895&fromMeetings=true&meetingId=45937&

[349] It may be difficult in practice to enforce against third-country service providers without any assets in the EU.

[350] Targeted survey for business associations Q38: 8 of 13 respondents.

[351] A study commissioned by the Dutch Ministry of Economic Affairs and Climate found that 42% of companies that would need external financing in case of a limitation of prepayments to 20% expects an increase of prices by more than 6%, Panteia, Onderzoek financiering (pakket)reissector - Voor het ministerie van Economische Zaken en Klimaat, 14 March 2023, p. 65-66, https://www.rijksoverheid.nl/documenten/rapporten/2023/03/14/onderzoek-financiering-pakketreissector

[352] It should be noted however that the limited increase in capital costs and/or administrative burden for organisers is likely to have significant consequences for them. Because price-sensitive consumers represent a very large segment of the travel market and because many of them compare prices via online tools (see Also Annex 13) a 2 to 3% increase in the pricing of travel packages induced by regulatory changes would result in customer attrition (loss of clients). Their economically weakest consumers might no longer be able to afford the organisers' services, having to reduce their travelling abroad or go for less protected options (booking single services). However, as a mitigating measure, organisers may wish then to consider not increasing prices for the most vulnerable travellers.

in case of a cancellation, thereby reducing the effect of delays in reimbursements and potential losses.[353] Considering that the estimated current average prepayment between 33% and 50% would go down to 20%, the average prepayment per package would decrease from between EUR 456 and EUR 691 EUR to EUR 277. The reduction in prepayments per package would hence be between 151 and 349 EUR. Considering that 55.4 million packages were sold in 2022, this represents between EUR 8.4 billion and EUR 19.3 billion prepayments. As approximately 4.4% of travellers suffered financial loss in normal times, the introduction of this measure would result in a reduction of consumer detriment between at least EUR 369.1 million and EUR 851.7 million per year.

This measure is expected to cause one-off transposition costs for public authorities, which are already included in the global transposition costs for all the amendments of the PTD.[354] More Member State authorities supported this measure than opposed it.[355]

***Measure 1.4.2 Mandatory vouchers in times of crisis***

The COVID crisis has shown that mandatory vouchers, i.e. vouchers imposed on travellers without their agreement, can be an effective means of easing the pressure on the liquidity of ***organisers*** in times of crisis. However, this measure would decrease ***consumer*** protection compared to the current PTD. At present the right to a refund within 14 days is guaranteed, while under this measure the traveller would not receive the refund until the validity of the voucher ends, if the voucher is not used for another package beforehand. This would mean that the average waiting time for refunds would increase, hence resulting in a corresponding increase in consumer detriment. Therefore, this measure is supported only by very few stakeholders.[356] In addition, the introduction of this measure would necessitate the determination by a central instance that there is a type and magnitude of crisis, e.g., a serious liquidity crisis, that justifies the application of this measure. This would raise different questions and make this instrument rather heavy.

In order to address Problem 2, Option B consists of ***Measure 2.1 - Strengthened rules on insolvency protection with explicit reference to back-up fund***, as Option A. Therefore, the impacts of this policy measure are the same as described above for Option A.

To address Problem 3, the following measures would be included under Option B.

Under ***Measure 3.1.2***, LTAs type (b) would be deleted, and the definition of click-through packages would be adapted to incorporate all click-through bookings where the traveller's personal data are exchanged between traders.[357] In addition, regarding LTAs type (a), the criterion of a "single visit or contact" would be explained in a recital. Finally, traders would be obliged to provide information on

[353] As indicated by consumer organisations during the consultations (e.g. at PTD Workshop 1 with businesses and consumer representatives, October 2022), the practice of prepayments creates excessive financial exposure for consumers, as it was shown during the pandemic.

[354] Targeted survey for NCAs (regulatory and enforcement). two open-text responses to Q12: Authorities do not expect any increased monitoring costs because of this measure.

[355] Targeted survey for NCAs (regulatory and enforcement), Q13: 46% (12 of 26) of the respondents expressed favour for this measure, while 31% (8 of 26) opposed it.

[356] Industry stakeholders stated that mandatory vouchers are not a feasible solution and represented a temporary emergency measure during the pandemic. Commission minutes on the *"Meeting of the Stakeholder Expert Group to support the application of the Package Travel and Linked Travel Arrangements Directive (2015/2302)"* - 8 November 2022. Also sourced from an interview by ICF with business organisation selling integrated travel services, including package travel.

[357] Most public authorities are in favour of abandoning both types of LTAs (Q27 for type a): 64%, 14 of 22; and Q29 for type b): 73%,16 of 22.

insolvency protection only where it exists. In addition, under ***Measure 3.2.1***, there would be a clarification on cancellation rights, including a case-by-case assessment in relation to travel warnings. As the content of this last measure and of the clarification of the role of the parties is the same as under Option A the impacts would be identical in this respect. Consequently, only the economic impacts of the measure 3.1.2 are described below.

Some ***business stakeholders*** report that currently they are unable to identify anyone as LTA type (b) provider. As a result, there should be no or only minor costs connected with the removal of this concept, but stakeholders were not able to quantify them. The simplification and increased clarity should lead to savings for ***traders*** over time and to benefits for ***travellers***.[358] No cost data was received as to how clarifications to the definition of click-through packages could impact businesses. Limiting the requirement to provide information on insolvency protection for LTAs is not expected to increase operational costs and would be positive for travellers.[359] However, familiarisation with the changes and replacing the old information documents could lead to one-off compliance costs for ***businesses*** of approx. EUR 6.5 million, as for Measure 3.1.1. In addition, the deletion of two information sheets out of five would bring about some simplification benefits for travellers and businesses, resulting in a benefit of approx. EUR 108.9 million.[360] The proposed clarification of the criterion of a "single visit or contact" for type (a) LTAs is not expected to lead to cost increases for ***travellers and businesses*** but would increase consumer protection and benefit businesses through improved clarity and enforceability of the rules. Simplification and increased clarity could facilitate enforcement and thus reduce burden on ***authorities***.

However, the simplification and clarification benefits for all stakeholder groups would be limited if LTAs type (a) continued to exist in parallel to packages.

**Social impacts:** Introducing a strict limitation of prepayments could undermine the competitive position of EU organisers. In the long-term this might lead to a decrease of jobs for EU citizens. The remaining measures included in Option B are not expected to have additional social impacts.

***Overall impacts of Option B***

**Effectiveness : ++**

*0 (no change) + (somewhat effective) ++ (Moderately effective) +++ (Effective) ++++ (Very effective) +++++ (Extremely effective)*

If travellers were obliged to prepay only 20% of the package at the moment of booking, the need for a refund in the case of a cancellation due to unforeseen and extraordinary circumstances would be limited. While this measure would address Problem 1, the degree of its effectiveness will depend on the current market practice in the Member State concerned. Overall, while not completely resolving the problem on its own, this measure would be more effective than the status quo and could make a significant contribution to tackling problem 1 in conjunction with other measures. Mandatory vouchers would help maintain liquidity of package organisers in a crisis. However, they would

[358] Public consultation Q29, N=405 61% of respondents (246) support abandoning the LTA type (b) with or without substitute rules. Only few respondents consider that no changes are necessary (26, 6%). Most public authorities are in favour of abandoning both types of LTAs (Q27 for type a): 64%, 14 of 22; and Q29 for type b): 73%,16 of 22).

[359] Public consultation Q27: According to 40% of consumer organisations (8 of 20), in the information forms (Annex II, Parts A, B and C), travellers should be informed about insolvency protection before concluding the contract only in cases where they will actually benefit from such protection, in order to avoid false expectations. According to 55% of consumer organisations (11 of 20), where travellers benefit from insolvency protection, they should receive confirmation on this protection and its limits after the conclusion of the contract, so that they can invoke it, if necessary.

[360] Assuming a gain of 3 minutes per booking for choosing the right form and based on own calculation of the expected number of bookings for 2023 and wage assumptions made by the consultant in the supporting study.

seriously weaken the right of travellers to a timely refund of prepayments in the event of cancellations. Therefore, they would be only partially effective in addressing Problem 1.

Businesses interviewed highlighted the need for more harmonisation between national insolvency protection systems. Like under Option A, the clear cover of vouchers and refund claims under Option B would strengthen insolvency protection for the benefit of travellers, including in a crisis, and enhance harmonisation (addressing Problem 2 but also Problem 1). Otherwise, the harmonising effect is more indirect as Member States would continue to decide on the specific way in which to achieve effective insolvency protection. As under Option A, in this respect, effectiveness will thus depend on whether Member States decide to strengthen their national systems, for instance, by adding a back-up fund to an insolvency protection system based on insurance policies. To be fully effective, this measure would have to be combined with the Commission's monitoring of the national insolvency protection systems, which is part of the baseline.

Deleting LTA type (b), broadening the definition of click-through packages and adding a few clarifications regarding LTAs type (a) would bring some clarification/simplification benefits. However, the difficult distinction between packages and single point of sale LTAs (type A) would remain and the complexity of a set-up with packages, LTAs and stand-alone services would remain. Therefore, there would still be scope for circumvention and confusion of travellers and the simplification effect only partial. Therefore, in this regard, Option B, would be only somewhat effective in addressing Problem 3. The effectiveness of the clarifications on cancellations was already discussed under Option A above.

**Efficiency**

Wherever possible, the benefits and costs were quantified. Where no sufficient data was available for quantification, a qualitative assessment of costs and benefits was undertaken. Therefore, the quantified cost-benefit assessment is only partial and had to be combined with the qualitative assessment to reach a final assessment.

For the quantified costs and benefits both the net benefits and their Net Present Value ("NPV") were calculated. For the qualitative assessment, scores between 0 and +5 for the benefits, and between 0 and -5 for the costs, were assigned to all impacts. These scores were aggregated to show the net benefit.[361]

The efficiency in terms of costs and benefits of the measures included in Option B are depicted in the table below. More detailed calculations can be found in Annex 10.

[361] To be noted that the values were normalised, i.e., represented as a proportion of the same base value, in order to allow for comparison.

| Benefits and costs in EUR million | One off | Recurring | Methodology |
|---|---|---|---|
| **Benefits** | | | |
| Measure 1.1.2 Strict limitation of prepayments - benefit to consumers - reduction of consumer detriment in view of lower prepayment (liquidity gain) | | **610.4** | liquidity gain of EUR 8.4 billion and EUR 19.3 billion (on average: EUR 13.9 billion) on 4.4% of packages affected (in normal times) by financial loss. This leads to a decrease of consumer detriment between EUR 369.1 million and EUR 851.7 million. |
| Measure 1.4.2 Mandatory vouchers in times of crisis - benefits for organisers | | | Qualitative assessment: 5. Liquidity gains |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - benefits for consumers | | | Qualitative assessment: 3. Coverage vouchers and refund claims and potential back-up fund improves consumer protection. |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - benefits for organisers | | | Qualitative assessment: 0. Coverage vouchers will increase acceptance rate and improve iquidity of organisers (liquidity gains for organisers through higher acceptance rate taken into account under 1.4). |
| Measure 3.1.2 LTAs (OIOO) - businesses | | **108.9** | Some simplification for organisers and level playing field |
| Measure 3.1.2 LTAs (OIOO) - travellers | | | Qualitative assessment: 2. Clarification and simplification benefits. |
| Measure 3.1.2 LTAs (OIOO) - authorities | | | Qualitative assessment: 2. Clarification and simplification benefits. |
| Measure 3.2.1 Specifications on cancellations - consumers | | | Qualitative assessment: 1. Some clarification benefits. |
| Measure 3.2.1 Specifications on cancellations - MS | | | Qualitative assessment: 1. Some clarification benefits & easier enforcement. |
| Measure 3.2.1 Specifications on cancellations - organisers | | | Qualitative assessment: 1. Some clarification benefits. |
| **Total Benefit** | **-** | **719.2** | - |
| | | | |
| **Costs** | | | |
| Measure 1.1.2 Strict limitation of prepayment - lower prepayments (cost pass through from organisers - increased prices ) | | **553.5** | High-level estimate of the cost increase for organisers: 5%. This will be fully passed through to consumers, resulting in a price increase of packages |
| Measure 1.1.2 Strict limitation of prepayment - lower prepayments - cost pass through - increased package prices - impact on number of packages sold through price elasiticty (sales organisers) | | | Qualitative assessment: 3. In view of negative price elasiticty increased package prices may lead to a reduction of packages sold and hence negatively impact revenues of organisers. |
| Measure 1.4.2 Mandatory vouchers in times of crisis - impact on organisers | | **-** | Qualitative assessment: 0. Costs for organisers for issuing vouchers, if any, expected to be minimal. |
| Measure 1.4.2 Mandatory vouchers in times of crisis - impact on consumers | | | Qualitative assessment: 5. Reduction in consumer protection through no immediate refund. |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - organisers | | | Qualitative assessment: 0. Some MSs have back-up funds; obligation to create insolvency protection system already exists, any additional measures cannot be seen as an additional burden; 30% of businesses - costs of covering vouchers and refunds would be reasonable; 40% not; If there are any costs, likely 100% pass-through to travellers. |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - costs for consumers | | | Qualitative assessment: 1. If there are any cost increases, likley 100% pass-through from organisers. |
| Measure 3.1.2 LTAs - cost to business - familiarisation | **6.5** | | one-off familiarisation cost for businesses |
| Measure 3.2.1 Specifications on cancellations | | **-** | Qualitative assessment: 0. Negligeabe cost increases for organisers, if at all. |
| For all measures taken together - cost to administrations - transposition + information | **0.05** | | |
| **Total Cost** | **6.5** | **553.5** | |
| **Net Impact (Total Benefit - Total Cost)** | **- 6.5** | **165.7** | |
| **Benefit Cost Ratio (Total Benefit / Total Cost)** | | **1.3** | |

A strict limitation of prepayments to organisers would result in the highest burden on EU package organisers, while reaching the same or similar result as other possible measures in terms of consumer protection. The increased consumer protection, as compared to the status quo, would likely come at a significant cost for travellers. However, cost increases compared to the status quo, hence the efficiency of the measure, will also depend on the current market practice in relation to prepayments and will likely vary from one Member State to another. Mandatory vouchers in times of crisis would increase the liquidity of organisers in a crisis, while creating only very limited administrative burden on organisers and public authorities. Overall, Option B, while taking into account both the quantified benefits and costs (see table above) and the ones assessed qualitatively, would be less efficient than the status quo.[362]

The efficiency of measures addressing Problem 2 that are included in Option B was already discussed under Option A above.

The measures included in Option B to address Problem 3 would bring some clarification and simplification benefits, while entailing some one-off costs. Option B would hence be somewhat efficient.

[362] See also in this respect the tables comparing the options in Section 7 and in Annex 10.

Taking into account both the Net Present Value ("NPV") of the net quantified benefits and costs, and the efficiency scores determined qualitatively, Option B arrives at a normalised efficiency score of 0.08.[363]

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | Average efficiency |
|---|---|---|---|
| B | 0.08 | 0.08 | **0.08** |

**Coherence** Score: *-1 (from -2 to +2)*

A strict 20% limitation of prepayments for package organisers, while there are no limitations for service providers would lead to increased incoherence with the transport legislation, including the APRR. Indeed, no limitations of pre-payment are planned under the parallel revision of the APRR. The introduction of mandatory vouchers would decrease coherence with other legislation.

With the introduction of measure 2.1 on insolvency protection, the coherence with other policies would not change. There are no rules on insolvency protection for carriers in the passenger rights regulations. This discrepancy could be removed only through changes in the air transport legislation, which is outside the scope of the PTD.[364]

The measures addressing Problem 3 that are included in Option B would not change coherence with other policies.

### 6.3. Economic and social impacts of Option C

Option C includes the following measures addressing Problem 1: strict limitation of prepayments to organisers and service providers (1.1.3), mandatory rapid refund mechanism (1.2.2), and a B2B refund right in all cases (1.3.2).

***Measure 1.1.3 Strict limitation of prepayments to organisers and service providers***

A limitation of prepayments from travellers would lead to lower amounts to be refunded by ***organisers*** in case of a cancellation before the payment of the last instalment. This would make it easier for organisers to refund such prepayments to travellers within the legal deadline. Since this limitation is accompanied by a corresponding limitation of prepayments by organisers to service providers, organisers would not face liquidity risks. This would be particularly relevant for SMEs, who make up 99% of organisers. In addition, a limitation of prepayments may decrease the need for insolvency protection of organisers, so that their costs for insolvency protection may decrease in the long-term.

However, extending the limitation of prepayments to service providers would increase the liquidity risks of ***service providers***. It could also affect the competitiveness of EU as compared to non-EU service providers. Under the choice-of-law principle for B2B contracts, the latter could avoid the application of the PTD to their (B2B) contracts with EU package organisers even where a package is sold to EU travellers. According to an air carrier, introducing limitations on prepayments could mean

[363] For details, please see the calculations in Annex 10.

[364] This has also been recognised by numerous stakeholders who have indicated on several occasions that similar rules (e.g., mandatory insolvency protection for airlines) should also be included in the APRR and/or Air Services Regulation.

higher fares and ultimately fewer choices for customers as companies would likely reduce certain connections due to a lack of profitability.[365] While other transport service providers were not targeted in the interviews, it is likely that these impacts would be relevant also for them. Similar views were expressed in workshops[366] and in targeted consultations, where stakeholders indicated that they would expect cost increases of even more than 10%.[367] In addition, some hospitality service providers might adapt the prices of their services for inclusion in package or offer stand-alone services only.[368] Some risks for service providers, such as airlines, could be eliminated by organisers' depositing the entire payment for the service in an escrow account and making it accessible only once payment is completed by the traveller. However, this would transfer the whole liquidity risk to organisers. In addition, organisers dealing with service providers outside the EU may, in many cases, still have to prepay the current amounts to their service providers at booking, while only receiving a limited prepayment from their customers, leading to a situation similar to a limitation of prepayments to organisers as under Option B even if only for packages performed outside the EU.

Any cost increases for service providers would in principle be transferred, through corresponding price increases, to package organisers and subsequently consumers/***travellers***. Considering the announced 10% increase in costs for organisers, the corresponding cost increases for travellers would reach approximately EUR 1.1 billion, or EUR 14.7 per package (i.e. 1% of the package price). At the same time, in view of improved liquidity, it would be easier for organisers to make refunds to travellers. As for Measure 1.1.3, this would result in a reduction of consumer detriment between EUR 369.1 million and EUR 851.7 million per year.

This measure may create additional enforcement costs for national ***authorities***, as they would need to start monitoring business practices of service providers in addition to those of organisers, to verify their compliance with the PTD.

***Measure 1.2.2 Mandatory rapid refund mechanism (crisis fund) at Member State level***

A mandatory rapid refund mechanism could be financed through contributions of ***organisers***. The amount of the fee could be extrapolated from the information provided by Poland of EUR 5 per package,[369] which has created such a permanent fund. Considering price level differences between countries[370], Eurostat data shows that in 2022 Poland was at 86% of the EU average. Therefore, the EU average cost per package for the crisis fund would be EUR 5.81. Taking into account the Commission's estimate for the total number of packages in the EU in 2022 of 55.4 million, the total cost of crisis funds in all EU Member States would thus be EUR 322.3 million. The cost increase may be particularly relevant for SMEs, which generally have fewer resources to absorb price increases. Consequently, package organisers may try to pass such costs on to ***travellers***. 64% of businesses disagreed that Member States should create permanent national crisis funds, as this could create a moral hazard with some enterprises taking more risks than others.[371] On the other hand, since such fund would refund travellers in case of liquidity problems of organisers, fewer organisers may become insolvent, potentially leading to cost decreases for insolvency protection. 63% of consumer

[365] Interviewed for the supporting study.
[366] Workshop organised by ICF for the supporting study on 7 December 2022.
[367] Replies of stakeholders to the targeted consultation following ICF's workshop on 7 December 2022.
[368] Reply of a hospitality industry association to the targeted consultation following ICF's workshop on 7 December 2022.
[369] Poland's reply to the targeted questions sent by the Commission after the workshop with the Central Contact Points on 10 November 2022.
[370] Also known as purchasing power parity or PPP
[371] Targeted business survey, Q16: 9 of 14 companies disagreed.

organisations support the creation of national crisis funds.[372] If a rapid refund mechanism is introduced and there is a liquidity crisis, the fund - instead of organisers - would reimburse prepayments to travellers, thus safeguarding organisers' liquidity. All travellers would directly or indirectly pay for it.[373] However, only those travellers that insist on a rapid refund through such fund and who do not accept a (delayed) reimbursement through a voucher, would benefit from its existence. National regulatory bodies may incur additional tasks related to overseeing the operations of such crisis funds and monitoring their compliance. Denmark, where a – temporary – crisis fund is already in operation as a reaction to the COVID-19 pandemic, found that costs for its set up were negligible, since the infrastructure of existing funds is used. However, its cost in times of crisis is estimated to be around 0.7 million EUR annually.[374] No permanent contributions from competent authorities are expected, so that no further costs would be incurred by them. However, there may be the need to bolster the fund in a crisis through loans or increased contributions, if it has not built up enough capital, which would then have to be assessed under State aid rules. or as in the case of Poland, State aid might be necessary in the start-up phase of such liquidity fund if the aim is to have sufficient capital available for a larger crisis at an early stage. Any State aid measure is subject to approval by the European Commission. The Polish crisis fund was approved under the COVID-19 Temporary Framework, which provided for simplified and broader State aid rules for a limited time to support the economy in the context of the COVID-19 outbreak. Future measures will likely have to be approved under standard non-crisis State aid rules, implying that the Polish measure and other State aid measures approved in analogy to the COVID-19 Temporary Framework cannot be used as a template.

***Measure 1.3.2 Business-to-business (B2B) refund right in case of cancellation of the package within 7 days, independently of whether the service is offered***

The introduction of such B2B refund right would benefit package organisers by increasing their liquidity.[375] Moreover, organisers indicate that under the current rules there is an excessive burden on them, which is further exacerbated in a crisis.[376] A B2B refund right would help alleviate this burden. Introducing a maximum 7-day deadline for reimbursements from service providers to organisers could create certainty about reimbursement timelines for ***travellers and organisers***. Under this measure, service providers would not be able to refuse such refunds if the termination of the package travel contract is justified under the PTD, regardless of whether the service provider cancelled the service.[377] However, in case of disagreement on whether the cancellation of the package was justified, this could lead to more B2B disputes, thus creating litigation costs for ***service providers and organisers***, which may be substantial in a major crisis. At the same time, the number of disputes

[372] Targeted survey for consumer organisations, Q23: 63% (7 of 11) agreed a crisis fund should be a requirement under the PTD, notwithstanding the fact that it may result in price increases.
[373] Giving travellers the choice to decide at the time of booking whether they are willing to pay for a rapid refund mechanism or, otherwise, accept a voucher in the event of a liquidity crisis would not be practical.
[374] Sourced from interviews with the Danish insolvency fund, whose representatives stated that in times of crisis the expenditure could go up to approx. DKK 5 million per year.
[375] The lack of rules on B2B refund was mentioned, by stakeholders as one of the key drivers for the impossibility to refund travellers during the Covid-19 pandemic, e.g. PTD Workshop 1 organised for the supporting study with businesses and consumer representatives, October 2022.
[376] PTD Workshop 1 with businesses and consumer representatives, October 2022.
[377] It could indeed happen that during a widespread crisis packages are cancelled, while the relevant services are not. This was e.g., the case during the COVID-19 pandemic, where airlines operated virtually empty flights (i.e. at least 100,000 "ghost flights") in order not to lose airport slots. See: https://www.theguardian.com/environment/2022/jan/26/airlines-flying-near-empty-ghost-flights-to-retain-eu-airport-slots

between ***organisers and travellers*** regarding refunds, and corresponding litigation costs, should decrease.[378]

On the other hand, while reducing the liquidity risks of organisers, this measure would increase risks and costs for ***service providers*** since the B2B refund would be due whenever a package is cancelled even if the relevant service is not cancelled and is provided or could be provided (e.g. the flight which is part of a package is going ahead despite the cancellation of a package or the hotel is ready to receive travellers). ***Service providers*** would possibly transfer such additional costs to ***organisers*** and indirectly ***travellers*** by charging a risk premium on services included in packages, or they may even contractually exclude the provision of some services from packages.[379] No impact on prices of stand-alone tickets is expected.[380] In addition, given the choice-of-law principle for B2B contracts, the effect of the measure may be limited for third country service providers, possibly causing competitiveness issues for EU service providers.[381]

***Travellers*** may thus face a smaller offer of packages and/or higher prices. On the other hand, in case of cancellation in unavoidable and extraordinary circumstances, they are expected to benefit from the measure through more effective refunds. Indeed, organisers would have a right to obtain refunds from service providers within 7 days from the notification of the cancellation of a package. Consequently, they would likely be able to refund travellers within the mandatory deadline. Experience with reimbursements in the pandemic demonstrates that it is not clear, though, whether, in practice, these deadlines would be respected in case of such widespread disruption. Stakeholders were not able to provide detailed data on the cost impacts of this measure. [382] Only one ***organiser*** indicated a likely cost increase of more than 10%, but without providing any underlying data. Considering the inherent limitations of having just one data source, it is difficult to establish whether this estimate is representative. However, it must be assumed that all cost increases would be passed on to travellers. Conservatively taking the 10% increase in costs of travel providers as an increase in the price of the packages, this would result in a cost of travellers of EUR 1.1 billion. At the same time, ***organisers*** would have more liquidity and able to provide quicker refunds to travellers in case of cancellations, thus decreasing consumer detriment.

The measure is not expected to have any material impact on the administrative burden of ***organisers***.[383]

A significant share of businesses and business organisations responding to the consultations did not express support for this measure, although other stakeholder groups seem to support it.[384]

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[378] With the B2B refund right, organisers should have funds available to refund traveller, thus most likely leading to less disputes between travellers and organisers.
[379] Sourced from replies of organisers and service providers to the May 2023 targeted consultation.
[380] Sourced from replies of organisers and service providers (especially airlines) to May 2023 targeted consultation.
[381] It would be difficult in practice to enforce in case a third-country service provider does not have any assets in the EU.
[382] Most respondents to the May 2023 targeted consultation have not provided any figures.
[383] Response of an organiser to the May 2023 targeted consultation.
[384] Public consultation Q14: in total 191 of 507 respondents with this being their second most selected option. In particular 51% of EU citizens (35 of 68), 50% of public authorities (11 of 22), 48% of consumer organisations (10 of 21) and 35% of companies and business associations (127 of 368) support the idea that organisers should have the right to a refund against service providers within a specific deadline to enable them to reimburse travellers. The trends are similar when dividing traders by their main activities. Looking at pure players (only one activity selected e.g. only organiser or only carrier), the very few pure service providers (carrier, hotel, other services) who replied to Q14 did not select this option. Targeted business survey Q22: 15 of 23 respondents would agree to a new EU rule that requires service providers to reimburse organisers where the cancellation is justified under the PTD, within a specific time-limit. 6 said no and 2

Some national authorities consider that B2B arrangements should remain outside the scope of the PTD.

To address Problem 2, Option C contains ***strengthened rules on national insolvency protection, covering vouchers and refund claims by insolvency protection, and includes mandatory insolvency back-up funds at Member State level (Measure 2.2).***

Mandatory back-up funds at Member State level could be financed from contributions of ***organisers***. The exact fee would still need to be determined, but looking at existing examples, the cost could lie around EUR 5.81 per package.[385] Such additional costs will be passed on to ***travellers*** through price increases. This would result in additional costs for travellers of approx. EUR 322.3 million.[386] The operating costs of such a fund in times of crisis can be estimated at around 0.7 million EUR annually.[387] In the targeted survey, businesses were split on the usefulness of this option, 38% of respondents agreeing and the same percentage disagreeing with this idea.[388] Businesses interviewed were asked but did not provide additional information on potential costs. This option would aim to make insolvency protection more effective in many Member States and address limitations in insurance-based solutions, including limited insurance offers,[389] in some Member States, including in times of crisis. Mandatory back-up funds are not expected to burden travellers directly. However, for organisers in Member States where such funds do not yet exist, this could imply new costs,[390] which may be passed on to travellers through price increases. Mandatory back-up funds will require national level implementation, creating new tasks for competent ***authorities*** related to enforcement and monitoring. Opinions from national insolvency protection agencies varied on whether mandatory back-up funds were necessary. Indeed, the need for a back-up fund will depend also on the characteristics of the first-line protection arrangements in a given Member State and the relevant insurance market. Therefore, a back-up fund may not fit with all national systems and may lead to an unnecessary structure with associated costs.

As regards public authorities, additional costs for a back-up fund for the Member States would have to be balanced against the risk of State liability for an ineffective insolvency protection system.

For Problem 3, Option C would include the following measures: deleting LTAs type (b) and broadening the definition of click-through packages without clarifications for LTAs type (a) (3.1.3),

selected I don't know. Of the two "pure" service providers (traders providing passenger transport services) that replied to Q22, one said yes, the other one said no.

[385] Poland charges organisers EUR 5 per package for the insolvency protection back-up fund. In addition to the normal contribution of organisers – based on a percentage of yearly turnover – to the insolvency fund SGR, the Netherlands have introduced in 2021 additional contribution from travellers of EUR 5 per package with a value exceeding EUR 150.

[386] Considering that in 2022, 55.4 million packages were sold. See above and in Annex 10.1.

[387] Sourced from interviews with the Danish insolvency fund, whose representatives stated that in times of crisis the expenditure could go up to approx. DKK 5 million per year.

[388] Targeted business survey Q31: N=21, 8 agreed, 8 disagreed with "Member States whose insolvency protection system relies on insurance policies or bank guarantees, should be obliged to create back-up funds through contributions from organisers. The back-up funds would intervene where an insurance policy or a bank guarantee is limited" while 5 selected "don't know".

[389] See section 2.2.2 of this SWD. See, furthermore, Annex 13, Evaluation, EQ3 as well as the Application Report, Sections 4.2.2. and 5.1.3. and Section 3 of the Minutes of the meeting of the Central Contact Points (CCPs) of 10 November 2022, available at: Register of Commission expert groups and other similar entities (europa.eu). Furthermore, this problem is mentioned in some replies to Q66 and Q67 of the OPC and some policy papers received.

[390] EUR 5 per package.

clarifying cancellation rights and giving formal value to travel warnings (3.2.2), the role of the parties would be clarified, and retailers would also be made responsible for refunds of prepayments (3.3.2.)

***Measure 3.1.3 LTAs type (b) would be deleted, without amending definitions for LTAs type (a)***

As mentioned under Option A, there should be no or only minor costs connected with a legislative change deleting LTAs type (b). Stakeholders were not able to quantify them. The simplification and increased clarity should lead to savings for ***traders*** over time, related to the deletion of two information forms out of five, leading to a benefit of approx. EUR 108.9 million.[391] No cost data was received as to how clarifications to the definition of click-through packages could impact businesses. However, familiarisation with the changes and replacing information documents could cause one-off compliance cost of EUR 6.5 million.

***Measure 3.2.2 Specifications on cancellations due to unavoidable and extraordinary circumstances, including circumstances in the place of departure, and formal value for travel warnings.***

The impacts of a clarification that unavoidable and circumstances both at destination and in the place of departure may be taken into account would be the same as under measure 3.2.1 (described under Options A and B). Giving a formal value to travel warnings would make it more difficult for ***organisers*** to object to cancellations of packages without a fee. This may cause additional costs for them. However, it will reduce the litigation costs for ***organisers and travellers***. Stakeholders have not provided an indication of the cost impact of this measure. Regulation of travel warnings in this sense could lower consumer detriment from unsuccessful reimbursement requests. It could decrease the cancellation costs for ***travellers***, as no fee would be due for cancellations based on a negative travel warning. This measure could lower administrative costs for the Member State ***authorities*** related to court proceedings on the existence of unavoidable and extraordinary circumstances. However, some authorities indicated that travel warnings may be issued by different entities and for different purposes. Moreover, there is a risk of a time-lapse between something happening and the moment that a warning is issued. Travel warnings issued by authorities of different Member States can also be inconsistent. Therefore, there may be concerns regarding Member States liability if there is an automatic link between travel warnings and cancellation rights, and some remain sceptical.[392] In addition, the relevant national legislative provisions would need to be adapted, creating one-off transposition costs. A strict automatism of travel warnings for the cancellation of packages might also imply certain changes in the procedures relating to travel warnings. Since several Member States oppose this measure and even prevented any reference to travel warnings in the current PTD, this idea seems difficult to put in practice from a political perspective.

***Measure 3.3.2 Retailers would be made responsible for refund of prepayment in addition to organisers.***

Making retailers jointly and severally liable for refund of prepayments will likely increase the risks, and costs, for retailers who would then have to refund the traveller, and possibly only get the money

[391] Under the same assumptions as for Option B.

[392] Public consultation, Q11: 32% (7 of 22) of public authorities objected to this measure, 23% (5 of 22) raised some issues while not formally objecting (one requested equal treatment for travellers from different MS in case of divergent travel warnings, two indicated that this may depend on the status of the warning, one indicated this should be an important element to consider and one had no opinion), and 45% (10 of 22) fully supported the introduction of a formal value for travel warnings. It should be noted, however, that the question did not specify what formal value would be given to the travel warnings, i.e. whether they would have automatic consequences for cancellation rights. Therefore, certain interpretation differences may also have influenced the replies.

back from the organiser at a later stage. Under Article 13(1), Member States may have national provisions making the retailer also responsible for the performance of the package. Therefore, in Member States where the authorities already used this possibility, there would be no impact.[393] However, it is likely to affect business models in most of the Member States, where ***retailers*** are not liable for the performance of packages. Especially in markets where retailers operate with small margins this additional burden may be relevant. The proposed measure would improve the ease with which travellers obtain refunds, in particular in cases where the organiser is based in a different Member State. It could result in better enforcement by public ***authorities*** but may require one-off transposition costs.

**Social impacts:** A strict limitation of prepayments to organisers and service providers (Measure 1.1.3) could undermine the competitive position of EU service providers, as explained below under economic impacts. In the long-term this might lead to a decrease of jobs for EU citizens. On the other hand, the introduction of a mandatory rapid refund mechanisms at Member State level might create additional jobs within the EU, as additional resources will likely be needed to deal with this task. Overall, the additional social impact of this option would rather be negative. Introducing mandatory national back-up funds may create additional jobs in the EU.

***Overall impact of Option C***

**Effectiveness : ++++**

*0 (no change) + (somewhat effective) ++ (Moderately effective) +++ (Effective) ++++ (Very effective) +++++ (Extremely effective)*

Limiting prepayments to organisers and service providers would very effectively address Problem 1. An explicit B2B refund right where a package is cancelled, even if the relevant service was or could have been provided, would make it easier for organisers to refund prepayments to travellers within the 14 days deadline of the PTD. This would very effectively address Problem 1 but may be less effective in relation to third-country service providers. A mandatory rapid refund mechanism, once created and having collected sufficient funds, would ensure timely refunds to travellers in a liquidity crisis, effectively addressing Problem 1.

Compulsory national back-up funds would increase consumer protection in Member States where they would constitute a useful addition to the current protection. They would also help create a level playing field for companies in the EU. Measure 2.2 would thus be very effective in addressing Problem 2 for the Member States where such funds are a useful addition to the current mechanism.

Deleting LTAs type (b) would be only partially effective in addressing Problem 3, as problems related to LTAs type (a) and their delimitation from packages plus three information sheets for LTAs would remain. The clarification that the place of departure should also be taken into account for case-by-case assessment and giving formal value to travel warnings is likely to effectively address Problem 3. So would the measure on the parties responsible for refunds.

**Efficiency**

Wherever possible, the benefits and costs were quantified. Where no sufficient data was available for quantification, a qualitative assessment of costs and benefits was undertaken. Therefore, the quantified cost-benefit assessment is only partial and had to be combined with the qualitative assessment to reach a final assessment.

[393] This is, for instance, the case of France, Spain and Romania.

For the quantified costs and benefits both the net benefits and their Net Present Value ("NPV") were calculated. For the qualitative assessment, scores between 0 and +5 for the benefits, and between 0 and -5 for the costs, were assigned to all impacts. These scores were aggregated to show the net benefit.[394]

The efficiency in terms of costs and benefits of the measures included in Option C are depicted in the table below. More detailed calculations can be found in Annex 10.

| Benefits and costs in EUR million | One off | Recurring | Methodology |
|---|---|---|---|
| **Benefits** | | | |
| Measure 1.1.3 Strict limitation of prepayments to organisers and service providers - benefit to consumers - reduction of consumer detriment in view of lower prepayment (liquidity gain) | | **610.4** | liquidity gain of EUR 8.4 billion and EUR 19.3 billion (on average: EUR 13.9 billion) on 4.4% of packages affected (in normal times) by financial loss. This leads to a decrease of consumer detriment between EUR 369.1 million and EUR 851.7 million. |
| Measure 1.2.2 Mandatory crisis fund at national level - benefit for consumers | | | Qualitative assessment: 5. Travellers will get their refunds without delay. |
| Measure 1.3.2 Business-to-business refund right in all cases - benefit to customers - reduction of consumer detriment in view of timelier refunds | | | Qualitative assessment: 3 |
| Measure 1.3.2 Business-to-business refund right in all cases - benefit to business - increased liquidity for organisers | | | Qualitative assessment: 4 |
| Measure 2.2 - Mandatory insolvency back-up fund and coverage of vouchers and refund claims | | | Qualitative assessment: 5 |
| Measure 3.1.3 LTAs (OIOO) - businesses | | **108.9** | Some simplification for organisers and level playing field |
| Measure 3.1.3 LTAs (OIOO) - travellers | | | Qualitative assessment: 1. Clarification and simplification benefits. |
| Measure 3.1.3 LTAs (OIOO) - authorities | | | Qualitative assessment: 1. Clarification and simplification benefits. |
| Measure 3.2.2 Specifications on cancellations + formal value travel warnings - benefit for consumers | | | Qualitative assessment: 5 |
| Measure 3.3.2 Clarification on the role of different parties + seller responsible - benefit to consumers | | | Qualitative assessment: 3. Reduction in consumer detriment. |
| **Total Benefit** | **-** | **719.2** | - |
| | | | |
| **Costs** | | | |
| Measure 1.1.3 Strict limitation of prepayments to organisers and service providers - lower prepayments (cost pass through - increased prices ) | | **1,107.1** | High-level estimate of the cost increase for service providers passed to organisers: 10%. This will be fully passed through to consumers, resulting in a price increase of packages |
| Measure 1.1.3 Strict limitation of prepayment - lower prepayments - cost pass through - increased prices - impact on number of packages sold through price elasiticty (sales organisers) | | | Qualitative assessment: 5. In view of negative price elasiticty increased package prices may lead to a reduction of packages sold and hence negatively impact revenues of organisers. This will also affect service providers who will offer fewer services for packages, leading to a shrinking package travel market. |
| Measure 1.1.3 Strict limitation of prepayment - impact on enforcement MS | | | Qualitative assessment: 1. Potentially somewhat increased enforcement costs, as MS authorities would start monitoring also service providers |
| Measure 1.2.2 Mandatory crisis fund at national level | | **323.0** | costs would be EUR 322.3 million. Operating costs in times of crisis: EUR 700k/year. |
| Measure 1.3.2 Business-to-business refund right in all cases - impact on service providers - cost ass through to organisers and consumers - increased prices | | **1,107.1** | Expected cost increase of at least 10%, passed on to cosumers and resulting in a total price increase of EUR 1.1 billion. |
| Measure 2.2 - Mandatory insolvency back-up fund and coverage of vouchers and refund claims - impact on organisers - cost pass-through to consumers - increased prices | | **323.0** | costs would be EUR 322.3 million. Operating costs in times of crisis: EUR 700k/year. |
| Measure 2.2 - Mandatory insolvency back-up fund and coverage of vouchers and refund claims - impact on MS | | | Qualitative assessment: 1. New tasks for MS in enforcement and monitoring. |
| Measure 3.1.3 LTAs - cost to business (traders) - familiarisation | **6.5** | | one-off familiarisation cost for businesses |
| Measure 3.2.2 Specifications on cancellations + formal value travel warnings - impact on organisers | | | Qualitative assessment: 2. Clarification potentially leading to higher costs for organisers. |
| Measure 3.2.2 Specifications on cancellations + formal value travel warnings - impact on MS authorities | | | Qualitative assessment: 1. Split views among MS authorities whether the measure would have a positive impact. |
| Measure 3.3.2 Clarification on the role of different parties + seller responsible - impact on retailers | | | Qualitative assessment: 3. Likely to affect business models in most of the Member States, where retailers are not liable for the performance of packages. Especially in markets where retailers operate with small margins this additional burden may be relevant. |
| For all measures taken together - cost to administrations - transposition + information | **0.05** | | |
| **Total Cost** | **6.5** | **2,860.1** | |
| **Net Impact (Total Benefit - Total Cost)** | **- 6.5** | **- 2,140.9** | |
| **Benefit Cost Ratio (Total Benefit / Total Cost)** | | **0.3** | |

A strict limitation of prepayments to organisers and service providers would result in the highest burden on EU companies of the three options. The increased consumer protection, as compared to the status quo, would likely come at a financial cost for travellers. However, cost increases compared to the status quo, and hence the efficiency of the measure in achieving its objectives, will also depend on the current market practices in relation to prepayments and will likely vary from one Member State to another. Mandatory rapid refund mechanisms will result in increased costs for organisers, likely to be passed on to travellers. Moreover, in times of crisis, there could be substantial costs for

[394] To be noted that the values were normalised, i.e., represented as a proportion of the same base value, in order to allow for comparison.

public authorities. Introducing a B2B refund right in all cases where a package is cancelled due to unavoidable and extraordinary circumstances would keep the burden on companies as a group limited. However, the liquidity risk and related costs would shift from one category of businesses (organisers) to another (service providers). Hence, while it may increase costs for service providers, it would be beneficial for organisers (99% SMEs). On the other hand, it may lead to a decreased offer and/or higher prices for packages, thus reducing the benefits for travellers from shorter refund deadlines.

While the mandatory crisis fund included in Option C to address Problem 2 would entail additional costs for companies and public authorities, it would provide benefits to travellers in Member States where it is a useful addition to the current system. Overall, increased efficiency compared to the status quo is not guaranteed.

Giving formal value to travel warning would have substantial benefits for all stakeholders, while potentially creating some costs for companies and public authorities. Consequently, it would be very efficient but may face political opposition from certain Member States. Option C would be more efficient than the status quo in addressing Problem 3.

Taking into account both the NPV of the net quantified benefits and costs, and the efficiency scores determined qualitatively, Option C arrives at a normalised efficiency score of -0.37. It thus performs worse than the status quo.[395]

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | Average efficiency |
|---|---|---|---|
| C | -0.98 | 0.24 | **-0.37** |

**Coherence** Score: *-2 (from -2 to +2)*

Limiting prepayments for package organisers and service providers would be coherent within the PTD. However, it would create incoherence with the rules applicable to stand-alone services. Full coherence and elimination of negative effects on the availability of packages could only be achieved if similar limitations applied also to stand-alone services (e.g., under the Air Passenger Rights Regulation), which are not included in the parallel IAR on passenger rights and cannot be achieved through changes in the PTD. The introduction of a 7-day B2B refund right whenever a package is cancelled would create the same rules for all packages that are cancelled due to unavoidable and extraordinary circumstances and thus be beneficial for internal coherence. However, it would deepen the incoherence between the rules on packages and those applying to single services. This coherence issue could only be resolved through a cancellation right for passenger in the event of unavoidable and extraordinary circumstances, which, however, is not included in the parallel IAR on passenger rights. Moreover, there are no crisis funds for service providers. The mandatory introduction of such mechanism for packages would thus increase the cost gap between packages and stand-alone services and would reduce coherence with EU transport legislation. Moreover, such a fund would only benefit travellers that insist on a rapid refund and do not accept vouchers as a means of (delayed) reimbursement, thus creating an internal coherence issue.

[395] For details, please see the calculations in Annex 10.

The introduction of measure 2.2 would somewhat decrease coherence, as other EU legislation does not require insolvency back-up funds (most sectors, incl. air transport, do not even have a first-line insolvency protection).

If similar clarifications on the value of travel warnings and on cancellations were introduced in the APRR, this would create coherence between these policies. However, this cannot be achieved through changes in the PTD.

## 7. HOW DO THE OPTIONS COMPARE?

This section compares the performance of the five policy options, based on Section 6 assessments.

### 7.1. Effectiveness: expected achievement of the initiative's objectives

*Table 2 Effectiveness (scores from 0 to 5, normalised[396] scores from 0 to 1)[397]*

| EFFECTIVENESS | Option A | Option B | Option C |
|---|---|---|---|
| M1.1 Limitation of prepayments | 2.00 | 4.00 | 5.00 |
| M1.2 Rapid refund mechanism | 2.00 | 0.00 | 5.00 |
| M1.3 B2B refund right | 2.00 | 0.00 | 5.00 |
| M1.4 Vouchers | 1.00 | 0.00 | 0.00 |
| **score (objective 1)** | **1.75** | **1.00** | **3.75** |
| **normalised score (objective 1)** | **0.35** | **0.20** | **0.75** |
| M2.1 Insolvency protection/back-up fund | 3.00 | 3.00 | 5.00 |
| **score (objective 2)** | **3.00** | **3.00** | **5.00** |
| **normalised score (objective 2)** | **0.60** | **0.60** | **1.00** |
| M3.1 Partial Deletion LTAs | 5.00 | 3.00 | 1.00 |
| M3.2 Cancellation rights/travel warnings | 2.00 | 2.00 | 5.00 |
| M3.3 role parties | 1.00 | 1.00 | 3.00 |
| **score (objective 3)** | **2.67** | **2.00** | **3.00** |
| **normalised score (objective 3)** | **0.53** | **0.40** | **0.60** |
| **AVERAGE over the 3 objectives** | **0.49** | **0.40** | **0.78** |

In the table above, the expected achievement of the objectives is presented net of the baseline[398]. Keeping in mind the scale used for the normalised scores, i.e. from 0 to +1, it becomes clear that all the options assessed are substantially more effective than the status quo. Overall, Option C would be the most effective option in achieving the specific objectives of the review. This is mainly due to the mandatory nature of the measures included in it. It is followed by Option A, with Option B being the least effective one.

### 7.2. Efficiency: impact on travellers and businesses

To compare the efficiency of the different options, this report considers the costs and benefits for all stakeholder categories (businesses, travellers and public authorities), including any (change in) consumer detriment. The costs and benefits for all stakeholder groups have been added together to represent the total impact of each option, distinguishing between quantified impacts (where available) and qualitative ones. The quantitative and qualitative scores were normalised, i.e., expressed as a

[396] Normalisation of scores means adjusting values measured on different scales to a notionally common scale.
[397] For detailed calculations, please see Annex 10.
[398] Implying that the baseline is always considered to be equal to 0.

proportion of the same base value, so as to determine a mean score. Where appropriate, e.g. in view of diverging impacts, the impacts per sub-group (e.g. impacts on organisers and service providers or retailers) were also assessed. As 99% of organisers are SMEs, the specific impact on SMEs is already accounted for under the impact for organisers. We took the conservative assumption that impacts on each stakeholder category are equally important, thus used the same weighting for each category. The overall efficiency score of each option is hence made up of the individual scores for each stakeholder category.

For each stakeholder (sub-)group, the qualitative impacts on efficiency were assessed according to a scale (from worst, negative scores, to best, positive ones), with values from 0 to +5. The baseline was always assigned a score of 0. The conservative assumption was applied that impacts on each stakeholder category are equally important, thus the same weighting was used for each category.

For the quantified costs and benefits both the net benefits and their normalised efficiency (NPV) were calculated.[399] It should be noted, however, that it has proven more difficult to quantify benefits than costs. As a result, the cost-benefit tables in Section 6 above, which only consider quantified costs and benefits, show a limited overall benefit-cost ratio. Taking into account both the normalised efficiency in terms of NPV and the normalised efficiency determined based on the qualitative scores (ranging between -1 and +1), the average normalised efficiency was determined.

This average normalised efficiency for each of the assessed options is presented in Table 3 below.

*Table 3 Efficiency (average normalised efficiency score from -1 to +1)*

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | Average efficiency |
|---|---|---|---|
| **A** | 0.03 | 0.25 | **0.14** |
| **B** | 0.08 | 0.08 | **0.08** |
| **C** | -0.98 | 0.24 | **-0.37** |

Based on the full efficiency scores,[400] i.e., including both the NPV score and qualitative efficiency score, Option A would be most efficient in reaching the objectives of the review. It comes second in terms of NPV of the quantified measures. In view of the high costs, Option C obtains a negative NPV, while still scoring relatively well on the qualitatively assessed impacts but ends up being the least efficient option and worse than the status quo. Option B comes second in terms of overall efficiency.

While the full efficiency scores may seem relatively low, one needs to keep in mind the scale used (i.e. from -1 to +1). Therefore, in terms of overall efficiency, Option A still performs better than the status quo.

[399] Net present value (NPV) is a financial metric that seeks to capture the total value of an initiative. The idea behind NPV is to project all of the future cash inflows and outflows associated with an initiative, discount all those future cash flows to the present day, and then add them together.

[400] The full efficiency scores, or average normalised efficiency scores, are mentioned in the third column of Table 3 above. For a more detailed description of the methodology, please revert to Annex 4, part 3; for the calculations – Annex 10.

### 7.3. Coherence with other EU legislation and internal coherence across SOs

*Table 4 Coherence (scores from -2 to +2, normalised scores from -1 to +1)*

| COHERENCE | Option A | Option B | Option C |
|---|---|---|---|
| M1.1 Limitation of prepayments | 0.00 | -2.00 | -1.00 |
| M1.2 Rapid refund mechanism | 0.00 | 0.00 | -1.00 |
| M1.3 B2B refund right | 1.00 | 0.00 | -1.00 |
| M1.4 Vouchers | 2.00 | -2.00 | 0.00 |
| **score (objective 1)** | **0.75** | **-1.00** | **-0.75** |
| **normalised score (objective 1)** | **0.38** | **-0.50** | **-0.38** |
| M2.1 Insolvency protection/back-up fund | 0.00 | 0.00 | -1.00 |
| **score (objective 2)** | **0.00** | **0.00** | **-1.00** |
| **normalised score (objective 2)** | **0.00** | **0.00** | **-0.50** |
| M3.1 Partial Deletion LTAs | 0.00 | 0.00 | 0.00 |
| M3.2 Cancellation rights/travel warnings | 0.00 | 0.00 | 0.00 |
| M3.3 role parties | 0.00 | 0.00 | 0.00 |
| **score (objective 3)** | **0.00** | **0.00** | **0.00** |
| **normalised score (objective 3)** | **0.00** | **0.00** | **0.00** |
| **AVERAGE over the 3 objectives** | **0.13** | **-0.17** | **-0.29** |

In the table above, the expected achievement of the objectives is presented net of the baseline. Based on the coherence scores established for the three options in Section 6 in light of a detailed coherence analysis, Option A thus achieves the highest coherence with other EU legislation. It is followed by Option B and C that show a decrease in terms of coherence compared to the status quo.

### 7.4. Comparison of options

In order to find the best performing option, the three options were compared across the criteria of effectiveness, efficiency and coherence. The results are presented in the tables below.

The methodology for comparison is explained in Annex 4, part 3. The detailed calculations and their results can be found in Annex 10.

*Table 5 Comparison of policy options based on average normalised scores for each dimension*

| Policy Options | Effectiveness | Efficiency | Coherence | Mean MCA (equal weights) |
|---|---|---|---|---|
| **A** | 0.49 | 0.14 | 0.13 | **0.25** |
| **B** | 0.40 | 0.08 | -0.17 | **0.10** |
| **C** | 0.78 | -0.37 | -0.29 | **0.04** |

The multicriteria method used above compares the options based on a fully compensatory weighted average.[401] The weights used were equal to 1, as the number of sub-criteria per dimension is already

[401] A compensatory multicriteria method weighs the positive and negative attributes of the considered alternatives and allows for positive attributes to compensate for the negative ones.

neutralised by having averaged their normalised scores. The results in the table above show that Option A performs better than Option B, which, in turn, is better than Option C.

*Table 6 Comparison of policy options based on the Condorcet outranking method (partial compensation over 8 sub-criteria*)

| Concordance index (no. criteria where x dominates y) Y / X | **A** | **B** | **C** | no. criteria for which the option dominates another option | (domination score - dominated score)/no. comparisons |
|---|---|---|---|---|---|
| **A** | | 4 | 4 | 8 | **0.21** |
| **B** | 1 | | 2 | 3 | **-0.32** |
| **C** | 3 | 5 | | 8 | **0.11** |
| no. criteria for which option is dominated by another option | 4 | 9 | 6 | 19 | |

The second multicriteria method tested is the Condorcet partially compensatory outranking method[402,403] over the 8 individual sub-criteria that were assessed (3 for effectiveness, 3 for coherence and 2 for efficiency). This produces a ranking where Option A outranks (i.e., performs better in terms of efficiency than) Option C, which, in turn, outranks Option B.

[402] The Condorcet outranking method allows to evaluate alternatives in terms of pairwise comparisons. It assigns to pairs of alternatives a degree of preference, dominance, or indifference, based on how well they satisfy the criteria and their relative importance. The result table shows for how many criteria a certain option dominates, i.e., is better than, the other options.

[403] The method is partially compensatory, as it allows for compensation across the different dimensions (i.e., effectiveness, efficiency and coherence). However, there is no compensation between the different sub-criteria.

*Table 7 Comparison of policy options based on the Condorcet outranking method (over 3 key IA criteria)*

| Y<br>Concordance index (no. criteria where x dominates y)<br>X | **A** | **B** | **C** | no. criteria for which the option dominates another option | (domination score - dominated score)/no. comparisons |
|---|---|---|---|---|---|
| **A** | | 3 | 2 | 5 | **0.44** |
| **B** | 0 | | 2 | 2 | **-0.22** |
| **C** | 1 | 1 | | 2 | **-0.22** |
| no. criteria for which option is dominated by another option | 1 | 4 | 4 | 9 | |

The final comparison of options in Table 7 above, is a mix between the first and second method. The Condorcet outranking method is still used. However, rather than using the options' value for each of the 8 sub criteria the pairwise comparison is performed on the mean normalised scores[404] for each dimension (i.e., effectiveness, efficiency and coherence). As a result, there is full compensation between the various sub-criteria that belong to each dimension, but only partial compensation between the dimensions themselves. Option A again scores best. At the same time, there is no difference in the ranking of Options B and C, as they obtain the same scores.

The analysis above shows that, independently of the comparison method used, the overall best performing option, in terms of economic impacts, is Option A. While it is not the most effective option, it brings about benefits for travellers and businesses with the lowest costs. It also ensures the most coherence with other legislation.

As regards social impacts, Option A is not expected to have any specific positive or negative impacts. On the contrary, the social impacts of Options B and C are rather negative overall. This again points to Option A being the best one, on balance.

In addition, Option A contains measures that are less interventionist than the other options considered. Consequently, it respects the balance between the objective and the means and methods used as well as the consequences of the action, and is, therefore, the most proportionate.

## 8. PREFERRED OPTION

### 8.1. Composition and performance of the preferred option

Based on the impacts identified in Section 6 and the detailed analysis and comparison of options in Section 7, Option A is the preferred option. It contains the following measures:

- Regarding problem 1: flexible limitation of prepayments (1.1.1), possibility to setup of a crisis fund at national level (1.2.1), 7-day business-to-business refund right if the relevant service not performed (1.3.1) and voluntary vouchers at all times (1.4.1);

[404] Normalisation of scores means adjusting values measured on different scales to a notionally common scale.

- Regarding problem 2: strengthened rules on national insolvency protection (covering vouchers and refund claims and an explicit reference to voluntary back-up funds at MS level) (2.1);
- Regarding problem 3: deletion of LTAs type (a) and adaptations in the definition of package and in the definition of LTAs type (b) (3.1.1), clarification on cancellation rights and travel warnings (3.2.1), and clarification of the role of the parties (3.3.1).

When assessing the measures included in the preferred option, it has proven more difficult to quantify benefits than costs. A cautious approach was taken in this respect, as only the benefits and costs that could be identified were used for the calculation of the benefit-cost ratio. This resulted in a limited overall benefit-cost ratio (i.e. 1.2), which is still better than the status quo. Moreover, it needs to be taken into account that both the benefit-cost ratio and the average normalised efficiency score, i.e. including the costs and benefits assessed qualitatively, are calculated considering the total costs and benefits of the proposed measures for all stakeholder groups. As both ratios are positive, this indicates that – overall – stakeholders will be better off with the introduction of the preferred option than under the status quo.

The distribution of costs and benefits between individual stakeholders impacted (versus collective outcomes, which for them matter less) is key to showing the rationale behind the proposed intervention and its value added.

Under the preferred option, consumers will gain from the fact that the simplification will reduce the scope for circumvention and clarify the information available to travellers, hereby leading to fewer legal disputes, thus saving time, costs and efforts for all stakeholders.

The revised PTD will also ensure better application and enforcement of their rights to timely reimbursement and to exercising their right to choose between reimbursement or accepting a voucher instead. Moreover, such vouchers would be also protected against package organisers insolvency. This will contribute to consumers' regaining trust in package travel following the recent crises.

In exchange for these benefits to travellers, there is expected to be a small increase in package prices, as organisers (and service providers) are expected to pass on any increased costs onto travellers. This cost increase has however been shown as being very small (i.e. 0.3%) – and certainly dwarfed by the very high inflation that has affected most economies, including EU Member States, over the last two years. However, inflation is a baseline issue and is not influenced by the changes to the PTD.

In addition, there is recent evidence (from the UK ATOL reform survey[405]) that travellers prefer a small price increase that guarantees reimbursement in case of bankruptcy of the travel operator over commercial offers that would not include such guarantee. Moreover, feedback from consumer organisations indicates that sometimes travellers prefer to pay substantially more to enjoy higher protection.[406,407] Such stated consumer preferences indicate that a slight increase in price of the package, i.e. maximum 0.3% of the average package price, as a result of the introduction of the preferred option, in return for a higher protection granted by a lower prepayment, will likely be accepted by travellers. Therefore, the measures included in the preferred option are not expected to

[405] https://consultations.caa.co.uk/corporate-communications/atol-reform-request-for-further-information/user_uploads/atol-reform-request-for-further-information--cap2496-.pdf
[406] Replies of BEUC, VZV and DECO to Q1 of the OPC.
[407] BEUC's position paper, p. 11, https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf

lead to any decrease in consumption of packages by travellers. Overall, as a result of the preferred option, consumers will be better off than under the status quo.

Hence, irrespective of the global balance between costs and benefits among consumers as a group, the key issue is the distribution of these expected costs and benefits among them. Travellers prefer to pay a little more for their package to get easier and quicker reimbursement, without the need for repeated requests or legal action, where the need arises. In other terms, they prefer to pay a little to ensure that, should they be the unlucky party whose organiser cancels their trip – for instance, as a result of insolvency–- they will effectively get back the large sums of money they prepaid for the package or their equivalent in the form of a voucher. This is confirmed by feedback from national consumer organisations received during the public consultation[408] and a publication of an EU-wide consumer organisation.[409]

It would seem that even if – despite the cautious approach of this SWD, i.e. to concentrate on quantifying costs, while most benefits are assessed qualitatively – the total benefit-cost ratio were to turn out slightly negative for consumers as a whole, they would still be favourable to the preferred option as individually they prefer to pay a little more for their package to ensure that their payments be effectively protected. However, this is a theoretical consideration only, as in the present case, both the benefit-cost ratio and the qualitatively determined efficiency for travellers only[410], at 0.62 and 0.80 respectively[411], indicate that the benefits from the measures included in the preferred option quite substantially outweigh the costs for travellers, resulting, in particular, from package price increases.

In addition, the distribution of costs and benefits between different types of companies, i.e. organisers as opposed to service providers, is an important issue to take into account. With a B2B refund right which applies only if the service is not performed, which is included in the preferred option, the burden on companies as a group would be very limited. However, the measure would lessen the pressure on organisers from the obligation to reimburse travellers before they are themselves repaid by service providers for non-performed services, which was one of the key problems indicated by organisers. As such, it would be of direct benefit to organisers, who would be less likely to file for insolvency as the pressure on them is removed. At the same time, most of the costs identified will be borne by organisers, who are likely to pass them on to travellers. Moreover, both organisers and service providers will gain legal clarity, while they may face only slightly negative impacts from the fact that it will be less easy to circumvent the PTD rules, if that were to be a negative impact at all.

The overall economic impact of the preferred option is thus expected to be positive or at least neutral for all stakeholders.

In terms of impacts on competitiveness, approximately 112 000 EU package organisers, 99% of which are SMEs, would be affected by the measures included in the preferred option. That is an extremely small share of all companies in the EU, so with no overall impact on EU competitiveness. Package organisers would primarily gain from an increase liquidity from the B2B refund right measure, which they identified as a need.

In principle, all service providers – both established within the EU and outside of it but targeting their services at EU consumers – would be subject to Measure 1.3.1 included in the preferred option, i.e., a B2B refund right for organisers in case the service is not performed. In practice, though, organisers

[408] Replies of VZV and DECO to Q1 of the OPC.
[409] BEUC's position paper, p. 11, https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf
[410] As opposed to the total ratio for all stakeholders taken together.
[411] See Annex 10.1

based in the EU may not be able to insist on the application of EU law in a business-to-business contract with a third-country service provider and to enforce a 7-day refund in relation to third country service providers. However, there is already a difference at present in the scope to enforce refunds within and outside the EU and this will not change with the introduction of a B2B refund. Moreover, the right to a refund for services that are not provided corresponds broadly to general principles of contract law. Given that this difference already exists, the potential gap between the enforcement possibilities for organisers within and outside of EU will not become greater with the introduction of the preferred option. Therefore, no specific mitigation measures are considered necessary.

By contrast the new provision would make it easier (and faster) for organisers to obtain a refund from (especially EU-based) service providers than at present, as, in view of their smaller bargaining power they are often unable to agree to mutually beneficial contract terms with service providers such as airlines. This will, in turn, put package organisers in a better position to refund travellers and have a positive impact on the organisers' competitiveness. This may therefore put organisers in a better position vis-a-vis EU service providers and to a lesser extent vis-a-vis third country service providers. Moreover, whilst, overall competitiveness would be unchanged, the obstacles to recovering funds easily from non-EU countries, as long as not addressed (e.g. through bilateral agreements between the EU and the third country concerned), could lead organisers to choose the services of EU providers, such as airlines, over non-EU service providers for inclusion in packages that they offer. As a result, this might potentially in the longer-term lead to an improvement of the competitive position of EU service providers. In addition, it may encourage third country service providers wishing to operate within the EU to establish a representative office and/or a subsidiary in the EU. Overall, the B2B measure is hence expected to have a positive impact on the competitiveness of package organisers and a neutral

A competitiveness gain within the EU is expected from the measure contained in the preferred option which limits prepayments, unless the need for higher prepayments is justified (measure 1.1.1). This measure harmonises rules among Member States, since some countries already apply it, and increases effective market competition. International competitiveness with the rest of the world will not change as a result of measure 1.1.1, because third country organisers offering packages to consumers in the EU also have to apply the revised PTD.

In general, there should be limited impacts on international competitiveness from the measures included in the preferred option. The value added of the service provided by the package organisers is almost entirely generated within the EU. As a result, the potential channel by which international competitiveness could suffer is very small. In any event, the estimated impacts on costs are very small as well (both one-off and variable) and could certainly not be considered sufficiently significant on their own to redirect demand to non-EU providers.

Finally, the positive impact of the intervention in terms of increasing coherence with other legislation and the effectiveness in addressing the problems brought to light in the evaluation, should also be taken into account. In this spirit, when looking at the average normalised overall scores, it becomes clear that the preferred option, i.e. Option A, performs overall substantially better than the status quo. This clearly shows the value added of the proposed intervention.

In order to assess whether the preferred option, i.e., Option A, performs best under various scenarios, a sensitivity analysis was undertaken. A summary of the results is presented in the tables below. The detailed results, also including assessment through both the Condorcet outranking method and weighted sum method, are presented in Annex 10.

*Table 9 Sensitivity analysis of the options using minimum values for quantified efficiency*

| Policy Options | Effectiveness/Obj. 1 | Effectiveness/ Obj. 2 | Effectiveness/Obj. 3 | Coherence/ Obj. 1 | Coherence/Obj. 2 | Coherence/Obj. 3 | Efficiency (quantified)/ Net Present Value (discount rate 5%) | Efficiency (qualitative assessment) | Average of normalised scores for each dimension |
|---|---|---|---|---|---|---|---|---|---|
| A | 0.35 | 0.60 | 0.53 | 0.38 | 0.00 | 0.00 | 281.67 | 1.27 | 0.25 |
| B | 0.20 | 0.60 | 0.40 | -0.50 | 0.00 | 0.00 | 530.84 | 0.38 | 0.10 |
| C | 0.75 | 1.00 | 0.60 | -0.38 | -0.50 | 0.00 | -17280.38 | 1.21 | 0.03 |

*Table 10 Sensitivity analysis of the options using maximum values for quantified efficiency*

| Policy Options | Effectiveness/Obj. 1 | Effectiveness/ Obj. 2 | Effectiveness/Obj. 3 | Coherence/ Obj. 1 | Coherence/Obj. 2 | Coherence/Obj. 3 | Efficiency (quantified)/ Net Present Value (discount rate 5%) | Efficiency (qualitative assessment) | Average of normalised scores for each dimension |
|---|---|---|---|---|---|---|---|---|---|
| A | 0.35 | 0.60 | 0.53 | 0.38 | 0.00 | 0.00 | 894.37 | 1.27 | 0.26 |
| B | 0.20 | 0.60 | 0.40 | -0.50 | 0.00 | 0.00 | 4257.45 | 0.38 | 0.13 |
| C | 0.75 | 1.00 | 0.60 | -0.38 | -0.50 | 0.00 | -13553.77 | 1.21 | 0.07 |

Under all the scenarios considered, and according to all comparison methods used, the preferred option, i.e., Option A, scores the highest. It can hence be concluded that it is indeed the best option.

Given the nature of the measures which are part of the preferred option it does not seem necessary to propose transition periods in addition to the transposition period for the Member States. Specific mitigating measures for SMEs such as transition periods for these undertakings neither seem necessary nor appropriate. Indeed, in contract and consumer protection law, different rules based on the size of the business would be very confusing and detrimental for consumers (even if applied only during transition periods). They are hence not included in the preferred option.

### 8.2. REFIT (simplification and improved efficiency)

The revision of the Directive would give rise to some costs for stakeholders, but it is also expected to reduce the burden on them, particularly as a result of greater legal clarity and simplification. This would, for instance, be the case of the removal of LTAs and new provisions on vouchers. In addition, some Member States have already adopted several measures of the preferred option that could lead to moderate cost increases. For instance, in some Member States there are already (de jure or de facto) limitations to prepayments, some Member States cover vouchers and refund claims by insolvency protection and some Member States have insolvency back-up funds. Consequently, in those Member States, businesses would not face additional costs.

As regards reducing the burden for public administrations, the higher degree of legal clarity and the simplified regulatory framework are expected to increase the level of compliance and would make enforcement more efficient. In addition, Member States can identify best practices by looking at their peers that have already implemented the measures presented as voluntary under the preferred option. For example, Poland, as regards the crisis fund, or Czechia, Finland and Poland, which have created an insolvency protection back-up fund.

### 8.3. Application of the 'one in, one out' approach

The proposed changes to the Directive will have moderate cost implications for stakeholders. The costs and cost-savings related to 'one in, one out' are included in the cost/benefit tables in Annex 3.

The preferred option will result in one-off administrative costs due to familiarisation with the new provisions due to measure 3.1.2 of approx. EUR 6.5 million.

At the same time, administrative yearly cost savings are expected.

The partial removal of LTAs and related administrative simplification under measure 3.1.1 will result in organisers spending less time on choosing the right information form and thus will reduce their administrative burden by approx. EUR 181.4 million per year.

Additionally, the simplification of several provisions and introduction of clearer criteria in the PTD is likely to result in easier monitoring, thus reducing the administrative costs for Member State authorities. Since such cost decreases concern public authorities only, they are not part of the Commission's 'one in, one out' commitment.

## 9. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

The proposed amendments, if eventually adopted by the co-legislators without major changes, will be successful if travellers, travel businesses and enforcement authorities consider that the PTD as amended is as clear as possible regarding the core concepts and the rights and obligations of the parties, including in relation to cancellations, refunds and vouchers at least compared to the PTD in the version of 2015. The amendments will also be considered as successful if travellers consider that they are well informed and well protected when they purchase travel packages, including in a crisis. To assess the effectiveness in achieving the objectives of the chosen option, the following progress indicators have been identified. However, reporting obligations for public authorities and businesses remain unchanged compared to the current PTD. These indicators can serve as the basis for a Commission report after from five years after the Directive is adopted. The necessary information will be collected through surveys to stakeholder groups (including travellers, consumer organisations, travel businesses and national authorities). They will also be relevant for subsequent evaluations. It will have to be considered that factors other than the PTD (e.g., market and technology developments, including consumer preferences and new business models, other legislation, including on environment and taxation) may contribute to developments more strongly than the PTD.

*Table 7 Monitoring indicators*

| Specific Objectives | Indicator | Success | Data source |
|---|---|---|---|
| 1. Improved protection of travellers' prepayments and their right to a timely refund, including in times of crisis, while maintaining the liquidity of package organisers | Average time before refund at normal times / crisis does not significantly exceed 14 days (e.g., one month), unless travellers accept a voucher or an alternative package which takes place later. | According to surveys, ideally at least 70 % of travellers are reimbursed within 14 days upon cancellation of the package at normal times and within 28 days in a crisis. | Consumer survey, surveys of enforcement authorities, as well as national and EU consumer organisations, Feedback from the PTD Expert Group. |
| | Refunds from service providers to organisers within 7 days after the cancellation of services | According to surveys, ideally at least 70% of organisers receive timely refunds of prepayments after cancellations within 7 days. | Business survey, surveys of enforcement authorities, as well as national and EU business organisations, Feedback from the PTD Expert Group. |
| | The share of travellers declaring that they are clearly informed on their rights regarding vouchers, e.g., voluntary, insolvency protected etc. | According to surveys, at least 70% of travellers are satisfied with information on vouchers. | Consumer survey, surveys of enforcement authorities, as well as national and EU consumer organisations, Feedback from the PTD Expert Group. |

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| 2. Strengthened protection of travellers against the organiser's insolvency, including in the event of a major crisis, while also ensuring a level playing field in the Internal Market | Share of travellers being repatriated and receiving full refunds without undue delay following insolvencies of organisers. | According to the central contact points and possibly consumer organisations, in at least 90 % of cases there are no significant problems with repatriations and refunds. | Survey among the central contact points and possibly consumer organisation. Feedback from the PTD Expert Group. |
| 3. Increase legal certainty and enforceability of the PTD by clarifying and/or simplifying certain provisions of the Directive that are liable to be subject to divergent interpretations by stakeholders or are difficult to apply in practice | Share of package organisers that inform travellers correctly about the fact that the PTD applies to the combination of travel services booked and the associated rights of travellers. | Organisers largely (at least 90%) comply with these obligations. | Surveys of enforcement authorities, as well as national and EU consumer organisations, Feedback from the PTD Expert Group. |
| | The share of travellers declaring that they are clearly informed on their rights as package travellers and understand the information provided to them including in relation to:<br>- whether they are being offered a package and on the associated rights<br>- cancellations due to unavoidable and extraordinary circumstances<br>- and the role of different parties. | Ideally, at least 70% of consumers declaring that they are satisfied. | Consumer survey, surveys of enforcement authorities, as well as national and EU consumer organisations, Feedback from the PTD Expert Group. |
| | Travel businesses finding the new rules simpler and clearer compared to the 2015 rules. | At least 50% of businesses replying positively. | Feedback from the PTD expert group and surveys amongst businesses and business associations. |

# ANNEX 1: PROCEDURAL INFORMATION

## 1. LEAD DG, DECIDE PLANNING/CWP REFERENCES

The lead DG for this back-to-back evaluation and impact assessment on the review of the Package travel directive is the DG for Justice and Consumers (DG JUST). The Directorate in charge is Directorate B - Consumers.

The initiative is encoded in Decide Planning with the reference PLAN/2021/11358. The initiative was included in the Commission work programme 2022.[412]

## 2. ORGANISATION AND TIMING

An Interservice Group was set up in July 2021 with representatives from the Secretariat-General (SG); Legal Service (SJ); Internal Market, Industry, Entrepreneurship and SMEs (GROW); Communication Networks, Content and Technology (CNECT), Competition (COMP); Financial Stability, Financial Services and Capital Markets Union (FISMA), Mobility and Transports (MOVE); Health and Food Safety (SANTE), and TRADE.

The Interservice Group met four times during the evaluation and impact assessment process and otherwise was consulted by email regularly on all the main steps and outputs of the process.

The planned timing for adoption of the new act by the Commission is Q4 2023.

The Inter-service consultation took place in Q42023.

## 3. CONSULTATION OF THE RSB

An upstream meeting with the RSB was held on 20 September 2022 (with participants from JRC).

A first version of this impact assessment was submitted to the RSB on 7 June 2023. The RSB hearing took place on 5 July 2023 and the RSB issued a negative opinion on 7 July 2023. The impact assessment was revised to take into account the Board's comments and was resubmitted to the RSB on 6 September 2023. The RSB reviewed the revised Impact Assessment draft and delivered on 28 September a second opinion viewed as "positive with reservations".

Following the negative opinion of 7 July 2023, the Impact Assessment was amended. as follows:

| **Recommendations of the Regulatory Scrutiny Board [*Ref. Ares(2023)4733412 - 7/07/2023*] regarding the Impact Assessment Report for Directive (EU) 2015/2302 on package travel and linked travel arrangements submitted on 7/5/2023** | **How the recommendations of the Regulatory Scrutiny Board were taken on board and are reflected in the new updated version of the IAR** |
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| **(B) Summary of findings**<br><br>The Board notes the additional information provided and commitments to make changes to | The report has been thoroughly redrafted in order to address the identified issues, as explained below. |

[412] https://commission.europa.eu/system/files/2023-01/cwp2022_en.pdf

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| the report. However, the Board gives a negative opinion because the report contains the following significant shortcomings: | |
| (1) The report is not sufficiently clear on the scale of the problems, the underlying market failures, and the specific objectives of this initiative. It lacks a clear narrative in terms of what can be expected from this initiative. | The draft IAR now provides a more detailed **description of the three identified problems** during the application of the Package Travel Directive (PTD), including by inserting certain details from the evaluation and referring to instances of **market failure (Section 2).** Additional explanations as to why the initiative is necessary to address these problems have also been included.<br><br>In some respects, and, insofar as this was possible, a **quantification** in relation to the **scale of the problems** (reflected, in particular, in Section 2.1) has been added.<br><br>Explanations regarding the general and specific **objectives** of the 2013 IA and those of the current initiative have been added (Sections 4.1. and 4.2.).<br><br>The **narrative in terms of what is the purpose of this initiative and what can be expected** from it has been improved and is covered by different sections (e.g., Section 1.2. and Section 4.1). This becomes clearer also in the more developed table on the monitoring of success (Section 9).<br><br>It has been clarified that the purpose of the amendments considered in this IAR is to fill specific gaps and clarify specific issues in the PTD, as well as to simplify certain aspects of the Directive. The changes considered are particularly important for the protection of travellers in a crisis but would add value to the PTD also at normal times. The targeted changes address, for instance, the absence of rules on vouchers, uncertainty on insolvency protection for vouchers and refund claims and specific aspects of the cancellation of packages due to unavoidable circumstances. |
| (2) The report does not identify all relevant (combinations of) options upfront. It does not sufficiently explain why alternative market and insurance-based measures are not considered. | All relevant **options** (combinations of measures) are identified upfront now. A presentation of the **intervention logic** on one page, including problems, objectives, policy |

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| | measures and policy option has been inserted at the beginning of Section 5, replacing in this section the table containing the policy measures and policy options.<br><br>Furthermore, explanations on why the possibility for travellers to take out **insurance policies** (e.g., travel insurance) cannot address the identified problems have been added in different places (e.g., Sections 2.1.1, 2.1.2 and Section 5).<br><br>Moreover, there are now additional explanations on why **non-legislative solutions**, including guidance and enforcement, are insufficient in Section 5. |
| (3) The level of impact analysis is not proportionate to the size of the problem and expected impacts. | The analysis of the impacts has been strengthened in different ways. Where possible, expected benefits and costs have been quantified (mainly Section 6) and the qualitative assessment of the remaining aspects has been refined (Sections 6 and 7). In addition, the comparison of the different options has been refined (Section 7 – see Section B(4) below).<br><br>The added clarifications on the size of the problems in Section 2 aim to ensure coherence with the expected impacts. |
| (4) The report does not provide a consistent comparison of options in terms of effectiveness, efficiency, coherence and proportionality. | In addition to some added **quantifications**, the performance of the three policy options is now compared based on a more refined **qualitative assessment** with extensive sensitivity analyses (in Sections 6 and 7, Annexes 3, 4 and 11):<br><br>- to low and high ceilings of quantified costs, in addition to the average used to MCA method (fully compensatory additive method versus partially compensatory Condorcet methods over all individual sub-criteria or over aggregated scores for each key criterion);<br><br>- sensitivity analysis that looks at options rankings based on individual key criteria or pairs of key criteria. |
| **(C) What to improve** | |
| (1) The report should better explain the link and synergies with the Air Passengers Rights | More detailed explanations have been added regarding the content of the Package Travel |

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| Regulation and how this initiative articulates with it. It should bring out more clearly the complementarity of the two instruments as well as the two revision processes. It should also better explain its relationship to the proposal for a Regulation on common rules for the enforcement of passenger rights, passenger rights for multimodal journeys and reimbursement of airline tickets bought via an intermediary. On that basis, the report should clarify what remaining gap this initiative fills. | Directive as it stands, as well as **links and synergies** with other legal acts and initiatives, including acts and initiatives in the remit of DG MOVE, and several acts and initiatives from within DG JUST. Through these explanations it becomes clear that the need for a revision of the PTD is rather independent of the other acts and initiatives. (Section 1.2 and, to some extent Section 5.1 and Annex 11, which contains an overview of the main consumer rights under the APRR and PTD).<br><br>It is further explained that, in as much as this can be done in the PTD, the envisaged revision will improve **coherence between the PTD and the Air Passengers Rights Regulation (APRR)**, e.g., through the introduction of rules on vouchers and a business-to-business refund right. The measures on pre-payments, insolvency protection and crisis mechanisms which are part of the preferred option take into account the state of play regarding passenger rights.<br><br>(Section 1.2 and, to some extent Section 5.1 and Annex 12, plus the coherence assessment of different measures). |
| (2) The report should better demonstrate the scale of the problems, differentiating business-as-usual situations from exceptional crisis scenarios. It should bring out more clearly the underlying market failures, including by explaining why market and insurance-based solutions cannot offer the level of protection considered necessary. On that basis, it should present a clear narrative on what the revision is expected to deliver. This should feed in the definition of more specific objectives so that the success of this initiative can be measured. | In addition to the amendments of the IAR explained in Section (B)(1), the IAR distinguishes now more clearly between, on the one hand, problems identified during **COVID-19** and solutions related to crisis preparedness, and, on the other hand, measures addressing problems identified independently of this crisis. There are also references to the proportionality of measures aiming at an enhanced preparedness for a future crisis. these two points are covered, for instance, Section 4 but also in the assessment of different measures in Section 6, in particular, measures in relation to problem 1).<br><br>The revised IAR also refers to instances of market failure in different places (e.g., Sections 2.1., 2.1.1., 2.1.2 and Annex 9) and explains in different sections why insurance solutions available to travellers cannot address the identified problems (Sections 2.1.1. and 2.1.2). |

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| | As explained under Section (B)(1), the narrative on what is expected from the revision has been improved in connection with the objectives (Section 4.1) and various other places (for instance in sections 1.2., 2.1.). In addition, there are detailed explanations on the purpose of the individual measures contained in the option in Section 5.<br><br>The indicators for **monitoring** and evaluation have been extensively redrafted in Section 9. They are linked to the specific objectives and also make it clear what the revision of the Directive is expected to achieve. |
| (3) The report should present all relevant (combinations of) options upfront and avoid identifying new combinations only late in the analysis. As the inclusion (or not) of the measure on strengthening national insolvency protection is one of the key policy choices, the report should present an additional option that includes this measure in addition to what is currently included in option A. The report should better explain why non-legislative measures have been discarded and existing market alternatives such as travel insurance have not been further considered. | Please see explanations in Section (B)(2) on the relevant (combinations of) options/measures.<br><br>In particular, a measure on strengthening national **insolvency protection** is included in option A, which previously did not contain any measure on insolvency protection (Section 5).<br><br>Furthermore, explanations have been added on why non-legislative measures have been discarded and existing market alternatives such as travel insurance cannot be further considered (Section 5.2.1. but also other places, e.g. Section 2) |
| (4) The report should present a level of impact analysis that is proportionate to the size of the problem and expected impacts. It is not clear why the quantification for various types of costs and benefits is not provided. It should make further efforts to quantify the costs and benefits of the options, differentiated by the affected consumers and economic actors. | Please see explanations in Section (B)(3) and (4). |
| (5) The report should further develop the analysis on the impact on consumers. It should be clearer about the benefits that the initiative will bring to them. It should provide the analysis of the likely cost pass-through. It should provide the reasonable estimates of resulting potential price increase of travel packages. Overall, the report should be clear whether consumers will be better off in the end | Wherever possible, the **benefits and costs** were quantified for each individual measure, including for consumers and taking into account cost pass-through, and are better explained. See, in particular, Section 6.<br><br>These costs and benefits were aggregated to represent the total impact of each measure (and subsequently, each option) on a given stakeholder group, distinguishing between quantified impacts (where available) and |

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| considering all monetised and non-monetised benefits and likely cost pass-through. | qualitative ones (these quantitative and qualitative scores were normalised so as to determine a mean score). The analysis of the impact on prices for packages which the different measures/options could bring about is strengthened.<br><br>Where no sufficient data was available for quantification, a qualitative assessment of costs and benefits was undertaken.<br><br>Therefore, the quantified cost-benefit assessment is only partial and had to be combined with the qualitative assessment to reach a final assessment. All the options have been assessed and compared with regard to their total efficiency, i.e., quantified and qualified costs and benefits, including for consumers. As becomes clear from this comparison, the preferred option, i.e. Option A, is the most efficient one, thus showing that overall the stakeholders will be better off with the introduction of this Option.<br><br>(Section 6 and 7, as well as Annexes 3 and 11) |
| (6) When comparing the options, the report should present all options and impacts (cost and benefits, including key quantitative estimates). The report should better explain the used scoring methodology and apply it coherently throughout the impact analysis and comparison of options. The scores attributed to the options in the various summary tables should be fully consistent with the findings of the analysis. The report should review critically all scorings and their aggregation throughout the text. It should also better justify the relative weights of the three basic comparison criteria and ensure that these weights are coherent with the refined objectives of the initiative. | The options were **compared** by analysing simultaneously their effectiveness (assessed qualitatively), efficiency (assessed quantitatively and, where quantification was not possible, qualitatively), and coherence (assessed qualitatively). This is done in the analysis of the individual options (Section 6) and when comparing the different options (Section 7)<br><br>The comparison was done using two different MCA methods: i.e. the Condorcet outranking method (partially compensatory) over a total of 8 sub-criteria (3 covering effectiveness with respect to the 3 key specific objectives, 3 covering coherence and 2 covering the quantified and complementary qualitative assessment of efficiency) and the simple weighted sum (fully compensatory) method over the 3 key IA criteria (of effectiveness, efficiency and coherence – with values based on the average of the normalised value of each related sub-score; and with equal weights, as weights are not needed to counter the effect of |

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| | the number of sub-criteria - since the average of the normalised scores of the sub-criteria were used).<br><br>It was also deemed of interest to check the options' ranking based on a mix of the two methods (Condorcet outranking method but based on the mean normalised scores of the weighted sum method).<br><br>Additional sensitivity analyses were performed to check the stability of the options' ranking when using (instead of the average quantified impact of a given measure) their minimum (respectively maximum) quantified impact (using conservative cost assumptions).<br><br>The detailed results of the costs and benefits calculations, as well as of the comparison of options and their sensitivity analyses, are presented in Annex 10.<br><br>Annex 4 on Analytical Methods has been further developed. |
| (7) While the report states in the competitiveness test that SMEs may benefit from the preferred option, it should be more specific on how the initiative will affect their cost and international competitiveness considering the international context in which the sector operates, and the potential constraints the EU package travel sector would face with respect to issues such as business-to-business refunds. | The IAR presents now detailed impacts on **competitiveness** in Annex 5 and the detailed **SME Test** in Annex 6.<br><br>In addition, considering that 99% of organisers are SMEs, the detailed impacts of the options on their costs are described in Section 6. |
| (8) The report should further develop the scope for simplification and cost reduction. It should elaborate the REFIT element in terms of simplification, in particular regarding burden for SMEs and citizens. It should also explain how it has considered all recommendations from the 'Fit for Future' Platform in its opinion. | **Simplification and cost reductions** are considered in the description (Section 5) and assessment (Section 6) of the options.<br><br>Section 8.2 of the IAR elaborates on the **REFIT** element in terms of simplification.<br><br>References to and explanations on all recommendations from the **'Fit for Future' Platform** opinion are included in different parts of the IAR, with a reference to all suggestions in Section 2 and in relation to relevant topics or measures (e.g., Section 6 and Annex 2). Furthermore, while four out of five f4f recommendations are taken up, it is clarified |

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| | why one recommendation is not taken up (Section 2.1.3.3. and Annex 2). |
| *Some more technical comments have been sent directly to the author DG.* | As announced the replies sent to the RSB on 4 July 2023, the technical comments sent to DG JUST prior to the hearing have also been addressed in the revised draft IAR. |

Further to the positive opinion received on 28 September 2023, the Impact Assessment was revised as follows to take into account the final RSB recommendations:

| **Recommendations of the Regulatory Scrutiny Board [*Ref. Ares(2023)6584428 - 28/09/2023*] regarding the Impact Assessment Report for Directive (EU) 2015/2302 on package travel and linked travel arrangements resubmitted on 6/9/2023** | **How the recommendations of the Regulatory Scrutiny Board were taken on board and are reflected in the further revised version of the IAR of October 2023** |
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| **(B) Summary of findings**<br><br>The Board notes that the report has been substantially redrafted. However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:<br>(1) The report is not sufficiently clear on the overall impact on consumers.<br>(2) The report should strengthen the qualitative analysis to better demonstrate the rationale for intervention. | The report has been further revised to address the issues identified, as explained below. |
| (1) The report should provide a clearer analysis of the overall impact on consumers. It should be clear whether consumers will be better off in the end, reflecting the potential price increase (cost pass-through). It should also be clear on the underlying baseline estimates (e.g. industry operation costs vs package revenues) and justify the chosen analytical approach reflecting stakeholder evidence on potential price increase. | The underlying baseline estimates (e.g. industry operation costs vs package revenues) and the chosen analytical approach reflecting stakeholder evidence on potential price increases are elaborated in Section 6 (pages 46-68) and in Annex 4 (new section 3).<br><br>The overall impact on consumers has been detailed in Section 8.1 (pages 80-84). It was also clarified, in the same section, that the benefits outweigh the costs of the intervention, both when considering only consumers, and when taking all stakeholders together. |

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| In any event it should clarify whether the non-monetised benefits (higher consumer protection as a result of more legal certainty) will outweigh the potential price increase. | |
| (2) Given that the total quantified net benefit is rather low and the Benefit Cost Ratio is just above one the report should further strengthen the qualitative analysis to demonstrate more clearly the rationale for and clear value-added of the intervention. | The qualitative analysis to demonstrate more clearly the rationale for and clear value-added of the intervention has been strengthened in the SWD. This is done mainly in Section 6 (pages 46-68), Section 7 (pages 76-77) and Section 8.1 (page 80-84). |
| (3) The report should further develop the potential impact on international | Likely impacts (or absence thereof) on international competitiveness have been further detailed and reported on in Section 6.1 (pages 46-52), Section 8.1 (pages 80-84) and in |

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| competitiveness by better substantiating it with quantitative evidence. | Annexes 3.2, 5 and 6 (as ca. 99% of organisers are SMEs).<br><br>Quantification elements: Number of EU package organisers affected (99% of which are SMEs): 112 000. They primarily gain from an increase in liquidity from the new B2B refund right (which package organisers identified as a need). |

## 4. EVIDENCE, SOURCES AND QUALITY

This back-to-back evaluation and impact assessment draws on pre-existing sources, such as the 2013 impact assessment for the PTD, several reports quoted below, as well as extensive original research and targeted consultation activities. A study supporting the Evaluation and Impact assessment was carried out by an external consultant on behalf of the Commission.[413] This study included interviews, targeted consultations, organisation of workshops and desk research.

A public consultation ran from February to May 2022. Several workshops with the main stakeholders (Member states authorities, experts, businesses and consumer associations) were carried out by the external consultant and directly by the Commission. Amongst the workshops organised by the Commission, there were two meetings of the PTD expert group[414] and different workshops with national authorities in 2022. In addition, on several occasions, DG JUST sent targeted questions to specific stakeholders to get further details and data on certain topics to complement the feedback given in the workshops or consultations. See details in Annex 2 on Stakeholder consultation (synopsis report) that contains a comprehensive overview of all consultation activities from the call for evidence through public consultation to the targeted surveys.

The most reliable sources have been used. Similar data were cross-checked whenever possible. It is acknowledged that some data are estimates, which is clearly indicated in the respective sections of this SWD.

Quantification of impacts has been consistently attempted, but sometimes limitations of data have made only a qualitative analysis possible. Therefore, qualitative assessment has been used as much as possible to supplement scarce quantitative data.

Several factors contributed to the difficulty to gather sufficient and solid quantitative data:

To start with, packages are quite complex, therefore it was less straightforward to obtain information on packages compared to stand-alone services. For certain aspects, quantitative information was

[413] Study to support the preparation of an evaluation of the Package Travel Directive back-to-back with an impact assessment on its potential revision; Not yet published

[414] Details on the group available at https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=3617&fromMeetings=true&meetingId=45600

simply not available at all, e.g., on LTAs - which is in line with the finding and feedback by stakeholders that LTAs are not used or difficult to identify in practice.

Secondly, the package travel industry is characterised by the fact that 99% of organisers are SMEs. They – and their business associations – do not have the means to gather detailed and comprehensive data and report on them. As a result, they were not able to provide quantitative information on many of the questions asked. The same applies to consumer organisations, many of which have very limited resources.

In addition, we have tried using other sources, such as quantitative information from State aid decisions approved during the Covid-19 crisis, e.g., in relation to vouchers. However, in view of the variety of systems in place in the MS and the resulting differences in the set-up of State aid schemes, it was difficult to extrapolate such data for the purposes of cost calculations for some of the proposed measures.

Finally, the challenges of gathering reliable quantitative evidence may be partly explained by the recent transposition and implementation of the PTD in the Member States.

The targeted consultations conducted by the external consultant had a relatively low response rate and data regarding the concrete impacts gathered during the consultation activities is limited. Where possible the above limitations were remedied using data collected through desk research and data gathered in the consultation process, as well as with available Eurobarometer data. Moreover, subsequent targeted questions have been sent to certain stakeholders to obtain more detailed (qualitative, and where possible quantitative) data.

Data and information were collected, amongst others, from the following sources:

- 2013 Impact Assessment, SWD/2013/0263 final available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2013:0263:FIN:EN:PDF
- 2019 click through report COM/2019/270 available at https://op.europa.eu/webpub/com/refit-scoreboard/en/policy/11/11-3.html
- New Consumer Agenda Strengthening consumer resilience for sustainable recovery, COM/2020/696 final available at EUR-Lex - 52020DC0696 - EN - EUR-Lex (europa.eu)
- 2021 application report COM/2021/90 final available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:90:FIN
- Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf
- Commission Recommendation 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, EUR-Lex - 32020H0648 - EN - EUR-Lex (europa.eu)
- European Commission, Directorate-General for Mobility and Transport, Kouris, S., Study on the current level of protection of air passenger rights in the EU: final report: study contract, Publications Office, 2020, https://data.europa.eu/doi/10.2832/529370
- Panteia, Onderzoek financiering (pakket)reissector - Voor het ministerie van Economische Zaken en Klimaat, 14 March 2023, p. 56, https://www.rijksoverheid.nl/documenten/rapporten/2023/03/14/onderzoek-financiering-pakketreissector

- Eurostat data bases, https://ec.europa.eu/eurostat

Additional sources of evidence, including relevant academic literature articles, reports and conference papers, online and data sources, as well as further policy documents and guidelines, are listed in the support study[415] or cited as footnotes, where referred to.

[415] See footnote 9.

# ANNEX 2: STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)

## 1. OVERVIEW OF CONSULTATION ACTIVITIES

Several consultation activities were carried out for this initiative, such as feedback on the Inception Impact Assessment (IIA), public consultation, consultations in the context of the supporting study (surveys and interviews for national authorities, for consumer associations for companies and business associations, and for consumers), workshops, meetings, other types of stakeholder input (Fit for Future platform's opinion, ad hoc contributions etc.). This section provides an overview of and basic information on the different consultations and section 2 presents their results in more detail.

**Feedback on the Inception Impact Assessment (IIA)**[416]

The IIA was published on 6 August 2022 and the feedback period ran from 6 August to 17 September 2021. 24 submissions received from: 9 business associations, 5 companies, 5 consumer organisations, 3 Other and 2 NGOs. They were from the following countries: Belgium, Germany, France, Spain, Austria, Portugal, and Malta.

The feedback took the form of policy papers outlining the preferences and views of the stakeholders on: Refund rights including B2B aspects, insolvency protection, limitation of prepayments, vouchers, cancellation rights, unavoidable and extraordinary circumstances, complexity of some definitions and concepts, information requirements and scope of the Directive.

**Public consultation**[417]

The public consultation was launched on 15 February 2022 and closed on 10 May 2022 (13 weeks). The objective of the public consultation was to gather inputs and feedback from stakeholders on their experiences, perceptions, and opinions on the application of the current rules of the PTD and about the potential impacts of options for future action.

The public consultation collected a total of 520[418] responses on EUsurvey, mostly from companies.[419] 122[420] respondents also submitted position papers. Replies came from 22 EU Member States, as well as Norway, Iceland, Serbia, UK, Canada, USA.

Respondents were invited to share information and views on the major issues identified for the PTD review: market developments; definitions and scope of application; cancellations, liquidity and reimbursements; insolvency protection, prepayments and preparation for a liquidity crisis; Linked Travel Arrangements (LTAs).

Out of the total 520 responses, 62% came from companies (323); 13% from EU citizens (68); 10% from business associations (53); 5% from public authorities (25); 3% from consumer organisations (21); 1% from non-EU citizens (3); 1% from non-governmental organisations (3); <1% from academic and research institutions (1), <1% from trade unions (1) and 4% from others (22). Out of the 323 companies, 96% were SMEs (310): 249 were micro-organisations (1 to 9 employees), 43 were small (10 to 49 employees), 18 were medium-sized (50 to 249 employees) and 13 were large organisations (250 employees or more). Vast majority of the 323 companies indicated being package

[416] Package travel – review of EU rules (europa.eu)
[417] Package travel – review of EU rules (europa.eu)
[418] In addition, three respondents submitted contributions outside of the EUsurvey tool by email. These contributions were reviewed but not included in the statistical analysis of the closed questions.
[419] The respondent category was called "company/business organisation" but referred to as companies in the report and the annexes.
[420] In addition to these 122 via EUsurvey tool, of the three additional respondents mentioned in footnote 270, two submitted additional position papers too.

organiser (271, 84%), followed by package retailer (117, 36%), trader facilitating LTAs (74, 23%) and trader providing other tourism related services (26, 8%).[421] It is important to note that while many companies indicated one main activity (mostly organiser)[422] many also indicated several main activities (mostly including organisers).

Two potential campaigns (coordinated replies by 10 or more respondents) were identified. The presentation of the results includes these replies. The first potential campaign concerns around 100 Dutch companies, mostly small/micro travel agencies, which responded in a strongly similar way to the closed and open questions. Among these, 16 provided identical responses to all closed questions, and around 100 provided strongly similar replies to most open and closed questions. Many closed questions were also left blank by these respondents. The second potential campaign concerns around 22 German companies. These responded in an identical or near-identical way to at least five open-ended questions. Furthermore, there is a strong degree of similarity between the responses to the closed questions in this group. The response rate for closed questions for this group of respondents is notably higher than for the first potential campaign. The main views in these two potential campaigns were: both campaigns find the existing insolvency protection sufficient and find that an extension would lead to excessive costs. They also do not support any prohibitions or restrictions of prepayments for packages. They believe that no new rules on environmental impacts of travel and tourism should be included in the PTD, and that there should be no new additional provisions on enforcement and fines in the PTD.

**Targeted surveys conducted by the external consultant**

Targeted surveys were used to gather information from relevant stakeholder groups on questions pertaining to the evaluation and impact assessment. Four targeted surveys were launched on 17 October 2022 and ran until 2 December 2022. The consumer survey was launched and completed in January 2023. The following stakeholder groups were consulted:

- Companies and business associations: 29 responses received
- Consumer organisations: 12 responses received
- Consumers: 10.152 responses received
- NCAs
  - Regulatory & Enforcement: 28 responses received
  - Insolvency protection agencies: 13 responses received

The surveys collected information on stakeholders' views and experiences regarding the current market trends in package travel including cancellation rights, voucher use and reimbursements. It also sought to establish the main challenges of the current legislation as well as its primary costs and benefits. Member State enforcement and insolvency protection authorities and agencies were also asked to define the key characteristics of their national schemes alongside their main challenges, costs and benefits. Consumer organisations were consulted on the scale on consumer detriment and specific challenges. Participants at large were asked to comment on potential policy measures included in the Impact Assessment.

[421] Online platforms facilitating bookings for stand-alone travel services and/or packages (25, 8%), Carrier (provider of passenger transport services) (20, 6%), Hotels, guest houses and other providers offering accommodation (with or without meals) for tourism purposes (16, 5%), Other (10, 3%), Online platforms providing information services, such as price comparison and aggregation of available offers, irrespective of whether those services are provided to consumers or to other businesses (8, 2%), Car rental company (6, 2%), Insolvency protection provider, e.g. a travel guarantee fund (whether publicly or privately run), insurance company (primary insurance or re-insurance), bank etc. (4, 1%).

[422] Number of companies who selected only one main activity: 157 organisers, 16 retailers, 5 traders facilitating LTAs, 3 carriers, 3 others, 2 insolvency protection providers, 1 trader providing other tourism related services, 1 car rental company, 1 hotel, 1 online platform facilitating bookings for stand-alone travel services and/or packages.

**Interviews conducted by the external consultant**

The interviews were conducted in two stages comprising a set of scoping interviews and full-scale stakeholder interviews.

At the start of the study, in early 2022, eight scoping interviews were carried out with the aim to support the early-stage scoping and fine tuning the approach of the study. Officials from the European Commission, European and national consumer organisations, and industry associations were interviewed. Following the scoping stage, further targeted interviews were carried out with the aim of gathering qualitative and quantitative information on the evaluation of the PTD and the potential measures to be analysed. The targeted interview process had a duration of 9 weeks, from 12 October to 9 December 2022. Interviewees were invited to take part in an online meeting lasting from 45 minutes to one hour.

The study team conducted 49 such interviews with stakeholders: 6 consumer organisations (2 EU level and 4 Member State level), 17 business associations (7 EU level and 10 Member State level), 7 companies (3 EU level and 4 Member State level), 2 individual experts (one EU level and one Member State level), and 17 national competent authorities. A total of 211 stakeholders were invited to the interview process, with 62 responding and 49 interviews completed at the time of the deadline.

Interviewees were asked to comment on a variety of issues related to the PTD, with the help of questionnaires tailored to three respective stakeholder categories: consumer organisations, companies and business associations, and national competent authorities. They were asked to contextualise their role in and knowledge of the PTD, and to provide their views on market trends (including prepayments and cancellation rights), definitions, insolvency protection, and enforcement.

The questions were designed to gather information regarding transposition and enforcement issues (for public authorities), trends in particular business sectors (for companies and business associations) and consumer complaints (for consumer organisations), but the questionnaire design allowed interviewees to also respond along the lines of other cross-cutting issues. Furthermore, the questionnaires encouraged interviewees in charge of or with experience with running insolvency protection funds to provide more detailed figures related to costs, staffing and infrastructure.

**Workshops organised by the external consultant**

Within the study, two stakeholder workshops were organised with the aim of updating participants (business associations and individual companies both including travel sector specific ones, consumer organisations including European Consumer Centres) on the progress of the study and gathering information in an interactive format on the key findings such as the problem areas identified and potential proposed measures to remedy current challenges. Both workshops were held online, on 26 October and on 7 December 2022.

**Meetings of the PTD expert group**[423]

DG JUST organised two workshops (24 March and 8 November 2022) of the Stakeholder expert group to support the application of the Package Travel and Linked Travel Arrangements Directive (2015/2302) (E03617). The group consists of EU-level or national organisations representing consumers and/or travellers, EU-level business organisations representing traders active in the travel sector and involved in the provision of package travel and/or linked travel arrangements, Organisations representing entities providing insolvency protection for the travel sector, national

[423] Details on the group including minutes available at Register of Commission expert groups and other similar entities (europa.eu)

alternative dispute resolution bodies specialised in (package) travel and/or tourism (See more info on the webpage of the group).

During these meetings the problems and possible solutions as assessed in this impact assessment were discussed. There was overall support for targeted amendments to the PTD with a view to simplification, clarification, and the closing of certain gaps. However, there were also different views on possible legislative changes from consumer representatives as opposed to business representatives and between different categories of businesses, which were visible also in other consultation formats. Further details can be found in the minutes of the expert group meetings.[424]

**Further workshops and meetings organised by DG JUST**

There were two workshops with the Central Contact Points as referred to in Article 18(2) PTD, one on 12 May and a second one on 10 November 2022.[425] The discussions in this format related in particular to insolvency protection. In addition, there was one meeting with national enforcement authorities (Consumer Protection Cooperation network or CPC) on 12 May 2022,[426] which focused in particular on enforcement aspects, and one further meeting with experts from national authorities on 5 December 2022.[427] The latter meeting covered all topics related to this impact assessment.

**Meetings at high or political level**

The review of the PTD was raised also at political level, in particular, at informal ministerial meetings during different Council Presidencies. It was also discussed at the European Tourism forum off 12 November 2022 in Prague with stakeholders and among Directors-General in charge of tourism.

**Ad hoc targeted consultations**

On different occasions, mostly as follow-up to the above-mentioned workshops and meetings, DG JUST contacted different stakeholders (public authorities, consumer organisations, business associations) by email to obtain additional information. Following the meeting with Central Contact Points (see above) on **10 November 2022**, DG JUST sent a list of specific targeted questions to the Central Contact Points about the mechanisms of their insolvency protection. In **December 2022**, targeted questions about a possible limitation of prepayments and B2B refund rights were sent to some stakeholders, including to the German authorities in relation to national case law which limits prepayments and to a few business associations. In **May 2023**, a list of complementary questions, in particular on cost impact of limitation of prepayments, were sent to some companies and associations representing key stakeholders in a final effort to fill in some of the data/feedback gaps.

**Workshops organised by stakeholders**

DG JUST also took part in different meetings or workshops organised by stakeholders. This included a workshop organised by European Guarantee Funds' Association for Travel and Tourism (EGFATT) together with the European Association of Travel Agents and Tour Operators (ECTAA) on 13 May 2022 which focused on insolvency protection in the travel sector. Another such workshop was organised by ECTAA at the European Parliament on 21 March 2023 regarding prepayments.

**The Fit for Future Platform's (F4F) opinion of 22 March 2022**

As part of the Regulatory fitness and performance (REFIT) programme,[428] the F4F Platform,[429] a high-level expert group, aims to help the Commission in its efforts to simplify EU laws and to reduce

[424] Register of Commission expert groups and other similar entities (europa.eu)
[425] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)
[426] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)
[427] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)
[428] REFIT – making EU law simpler, less costly and future proof (europa.eu)
[429] Fit for Future Platform (F4F) (europa.eu)

related unnecessary costs. The platform consists of two groups: the Government group and the Stakeholder group. The Government group is composed of representatives from national, regional and local authorities from all EU countries, as well as from the Committee of the Regions. The Stakeholder group is composed of experts on better regulation representing business and non-governmental organisations, plus the European Economic and Social Committee.

The platform issues opinions on the potential for simplification of EU laws and reducing unnecessary costs. In its opinion of 22 March 2022 on the PTD,[430] the F4F Platform identified five problems and made five related suggestions - to be implemented either by legislative changes or non-legislative guidance:

1 Lack of transparency regarding the role of different parties – to be addressed through better information on the identity of the contractual partners and on contact details and better enforcement of rules;
2 Lack of clarity around LTAs: definition unclear and allows for abuse, difficult to differentiate between LTA and package – to be addressed through clarification of scope and simplification of the definitions of package and LTA;
3 In the case of LTAs, the selection of the right standard information form is complex given the number of options available – to be addressed through clarification of pre-contractual information requirements;
4 Lack of clarity on the scope insolvency protection in particular in case of mass cancellation of contracts, including clarity about vouchers and re-bookings – to be addressed through clarification of uncertainties regarding insolvency protection;
5 Uncertainty around the definition of 'other tourist services' - to be addressed through clarification of 'other tourist services'.

Measures related to the first four suggestions are part of the evaluation and impact assessment and are part of the preferred policy option. There were questions related to the fifth suggestion in the public consultation.

However, it has to be taken into account that the PTD explains and limits the notion of 'other tourist service',[431] thus avoiding that combinations of accommodation and other tourist services lead to a disproportionate application of the PTD.[432] Neither the opinion of the Fit for future platform nor other consultation exercises demonstrated the need for further clarifications nor provided solutions. This made it difficult to identify this as a problem and further take it up in the impact assessment. The different views amongst stakeholders on whether more or fewer combinations should be exempted from the definition of package do not indicate that the current provision is not effective for the pursuit of the Directive's objectives.[433]

Furthermore, the likely intention behind this suggestion consisting in narrowing this definition would lower consumer protection and thus compromise one of the main objectives of the PTD.

[430] Adopted opinions (europa.eu)
[431] In Article 3(1)(c), Article 3(2)(2) and recitals 17 and 18.
[432] Tourist services that are intrinsically part of accommodation (e.g., access to on-site facilities and transfers to/from an airport or railway station), other tourist services (e.g., rental of sports equipment, spa treatments or courses) that do not represent 25% or more of the value of a package or services that travellers add while being at the accommodation do not lead to the application of the PTD. Furthermore, the PTD provides many examples.
[433] See also *Annex 2 Stakeholder consultation (Synopsis report)*

## 2. KEY RESULTS OF THE CONSULTATIONS

### 2.1 KEY FEEDBACK ON THE EVALUATION

#### 2.1.1 Companies[434] and business associations

Companies and business associations referred to the following problems in their **feedback on the Inception Impact Assessment**: [435]

- Organisers have difficulties to retrieve prepayments from service providers
- Some service providers, in particular airlines, which also have great power, ask for full prepayment
- 14 days for a refund under the current rules is too short. Vouchers are necessary in these circumstances
- There is lack of clarity regarding travel advice/warnings from public authorities.
- The right of travellers to terminate a package holiday contract by invoking force majeure gives them a wide margin of interpretation and could lead to abuse.
- LTA concept very unclear, confuses/misleads consumers, it dilutes the messages around the protection for packages. Enforcement difficult or even impossible as very difficult to establish whether an LTA has been formed.
- Package definition and/or scope of the Directive too broad
- Pre-contractual information obligations create significant administrative burden and legal uncertainty due to the unreasonable amount of information to be provided,
- Great uncertainty regarding the standard information forms to be provided to the consumer depending on the type of trip. Before concluding the travel contract, the professional does not necessarily know what case he is in,
- Online platforms, hotels and airlines use the loopholes of the PTD, which undermines one of its main aims.

In the **public consultation**, 57% of companies and business associations (193 of 336) stated that the PTD is not well adapted to market trends. 57% of companies and business associations (208 of 366) state that the rules on cancellation rights are not sufficiently clear, while 30% (94 of 316) find them sufficiently clear. Most companies and business associations state that the provisions on LTAs have not improved the protection for travellers and not contributed to fair competition (64%, 178 of 277 regarding LTA type Article 3(5)(a) and 65%, 177 of 273 regarding Article 3(5)(b)).

Replies by **companies and business associations** to the **targeted survey**:

- The market is "to a large extent" impacted by Covid-19 (96% of responses) and by new technologies (57% of responses). This is in line with consumer organisations' views in their survey
- Rules on LTAs, on the cancellations of packages, on refunds for cancelled packages (each with 54%, 7 of 13) are the biggest obstacles to achieve the PTD objectives in increasing consumer protection and contributing to the proper functioning of the single market.
- The liability for the performance of the package, including compensation for improper performance and alternative arrangements (57%, 8 of 14) and insolvency protection (50%, 7 of 14), have been highly costly and burdensome provisions.
- 39%, (9 of 23) indicated that the price of both bank guarantees, and insurance policies have gone up significantly, in particular since 2020.

[434] It is important to recall that in the public consultation 96% of the companies were SMEs and 80% of these SMEs were micro enterprises (i.e. 77% of companies were micro companies). Therefore, when talking about companies' views it is mostly SMEs' and micro companies' views that is meant.

[435] Feedback on IIA was provided in the form of position papers, therefore no statistical analysis was carried out.

In the **Interviews**, several companies and business associations mention that misalignments between the PTD and the Air Passenger Rights legal framework are points of particular attention in the future and have often been problematic for their business. Some question whether there should be a definition of "unavoidable and extraordinary circumstances" set out in the PTD, saying that a case-by-case basis is more helpful as a way of handling cancellations.

### 2.1.2 Public authorities

In the **public consultation,** 45% of public authorities (10 of 22) stated that the PTD is not well adapted to market trends. 54% (7 of 13) reported experiencing a low degree of compliance with the information requirements for potential LTAs under Article 19(2) and Annex II (Parts A, B and C) to the PTD (in relation to LTAs as defined in Article 3(5)(a) (single point of sale)) and 54% (7 of 13) report experiencing a low degree of compliance with the information requirements for potential LTAs under Article 19(2) and Annex II (Parts D and E) to the PTD (in relation to LTAs as defined in Article 3(5)(b) (facilitation in a targeted manner)). 80% (18 of 20) state that there has not been a significant number of bankruptcies of organisers and/or retailers since February 2020. Most considered that the provisions on LTAs have not improved the protection for travellers and not contributed to fair competition (81%, 17 of 21 regarding LTA type Article 3(5)(a) and 90%, 19 of 21 regarding Article 3(5)(b)).

**Targeted survey with National Competent Authorities (NCA) in charge of insolvency protection:** 66% (9 of 12) state that their country has taken sufficient measures to ensure that in case of the package organiser's insolvency, insolvency protection systems are able to cover vouchers and refund claims fully.
These NCAs consider that the PTD has been effective in achieving the objective of contributing to the proper functioning of the internal market, "to some extent" (54%,7 of 13). They stated that that the PTD has been effective in achieving the objective of increasing consumer protection, "to some extent" (46%, 6 of 13), and "to a great extent" (38%, 5 of 13). According to 8 of 12, regulating package travel at EU-level benefits the package travel and linked travel arrangements sectors "to a great extent" compared to regulating it differently in each EU country.

**Targeted survey with national regulatory and enforcement authorities:** 71% agreed (20 of 28) or tended to agree (25%, 7 of 28) that withdrawing the PTD would see consumers not be sufficiently protected in the package travel market. 72% (21 of 29) stated that, "to a great extent", regulating package travel at EU-level benefits companies and consumers compared to regulating it differently in each EU country. They stated that to a great extent (37%, 10 of 27) or to some extent (52%, 14 of 27), the PTD has been effective in ensuring consumer protection and in achieving the objective of contributing to the proper functioning of the internal market, "to some extent" (58%,15 of 26), and "to a great extent" (15%, 4 of 26). They experienced the following main compliance issues under the PTD: refunds (78%, 18 of 23), lack of consumer information on refunds when purchasing from retailers (60%, 15 of 25), termination of contracts (57%, 13 of 23), contractual information requirements, and LTAs promoted/sold as single travel services (each with 43%, 10 of 23).

**Meeting of 12 May 2022 with Central Contact Points[436] as referred to in Article 18(2) PTD**: CCPs reported on the measures adopted to ensure better preparation for future crises and reported on their experiences: A CCP explained that insolvency protection covers refund claims before insolvency of the organisers, gift cards and vouchers in their Member state. In their experience, during the pandemic, travellers demanded refunds in money instead of vouchers for the cancelled trips. Refunds were made from a fund of EUR 17 million. The delegation reported that there have not been insolvencies of traders offering LTAs and that it is difficult for travellers to build up a case for such

[436] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)

a trader. A delegation explained that it is very difficult for organisers of any size to find insurance on the national market. Another set up a travel protection fund, privately run and financed from fees of the secured organisers (minimum 1% of annual turnover for the capital + admission fee + bank guarantee or insurance of 5% of annual turnover as collateral). The aim is to reach a capital of EUR 750 million, which should cover the insolvency of the largest plus one medium-sized package organiser. After the capital is collected, the annual fee and the guarantees can be lowered. It was also explained that prepayments are limited to 20% by the national courts with travellers having to pay the rest 30 days before departure and that vouchers were secured against insolvency.

**Meeting of 10 November 2022**[437] **with Central Contact Points**: CCPs reported problems encountered in their MS: high cost of insurance mainly for SMEs, the limitations of the insurance coverage, difficulties to obtain insurance or bank guarantee, insurance market small, A Central Contact Point mentioned that there is a duplication of guarantees as credit card companies demand guarantees from organisers to handle payments, in particular after the Thomas Cook insolvency and the Covid-19 pandemic. Problems due to different approaches to insolvency protection across MS and the difficulty for travellers to claim refunds in cross-border packages (while these are likely to increase) was also mentioned.

**Meeting of 12 May 2022 with the Consumer Protection Cooperation (CPC) network**[438]: In general, the CPC authorities welcomed the review of the PTD. During the discussion on the interpretation and implementation of the main concepts of the PTD, authorities provided feedback on LTAs, information requirements, the refund of prepayments, coherence between the PTD and the passenger rights regulations, as well as compliance and enforcement in general. During the discussion on issues related to cancellations, refunds and insolvency protection in connection with the Thomas Cook insolvency and other insolvencies, the COVID-19 crisis and in general, the CPC authorities expressed different views on the interpretation of Article 17 of the PTD, respectively whether all prepayments made by travellers should be secured against the insolvency of the organiser and several CPC authorities outlined that, in most cases, prepayments were necessary to ensure the package travel model. CPCs explained if and which way prepayments are regulated in their MS, e.g. in some MS, prepayments are limited to 20%.

### 2.1.3. Consumer organisations

In their feedback on the **Inception Impact Assessment**,[439] consumer organisations raised the following issues:

- LTA raises uncertainties, often unclear what 'facilitation' of the booking mean. Consumers often have the impression they bought a package, when in fact they bought an LTA
- Many traders adapt their business model based on LTAs, when in fact they are selling packages.
- Complicated for consumers to distinguish among the different categories of travel contracts
- Consumers are very unprotected in case of LTAs
- Many and major problems with reimbursement (for both air tickets and travel packages)
- Many consumer complaints about the impossibility or at least difficulty to contact travel organisers/airlines to receive updated information (essential during a crisis), insufficient/wrong contact information provided

**Public consultation**: 57% of consumer organisations (12 of 21) stated that the PTD is not well adapted to market trends, similarly to other major stakeholder groups, including companies, business associations, public authorities and EU citizens. 56% (10 of 18) experienced a low degree of

[437] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)
[438] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)
[439] Feedback on IIA was provided in the form of position papers, therefore no statistical analysis was carried out.

compliance with the information requirements for potential LTAs under Article 19(2) and Annex II (Parts A, B and C) to the PTD (in relation to LTAs as defined in Article 3(5)(a) (single point of sale)) and 54% (10 of 17) a low degree of compliance with the information requirements for potential LTAs under Article 19(2) and Annex II (Parts D and E) to the PTD (in relation to LTAs as defined in Article 3(5)(b) (facilitation in a targeted manner)). 57% (12 of 21) state that there has not been a significant number of bankruptcies of organisers and/or retailers since February 2020. Most considered that the provisions on LTAs have not improved the protection for travellers and not contributed to fair competition (95%, 19 of 20 regarding LTA type Article 3(5)(a) and 95%, 19 of 20 regarding Article 3(5)(b)).

**Targeted survey with consumer organisations**: Similarly to companies and business associations, consumer organisations considered that the Covid-19 pandemic "to a large extent" (100%, 12 of 12) and new technologies "to a moderate extent" (50%, 6 of 12) were the factors that most impacted the package travel sector. All 12 consumer organisations reported that travellers "rarely received a full refund within 14 days or with a short delay (within one month)" in the context of prepayments due to unavoidable and extraordinary circumstances during the COVID-19 pandemic. Only 8% (1 of 12) reported this before the Covid-19 pandemic. They considered the PTD effective in increasing consumer protection "to a great extent" (45%, o 5 of 11), and "to some extent" (45%, or 5 out of 11), and in contributing to the proper functioning of the internal market "to some extent" (64%, 7 of 11). Like companies and business associations, consumer organisations stated that rules on LTAs (80%,8 of 10), rules on the cancellations of packages (each with 60%, 6 of 10) are the biggest obstacles for the PTD to achieve its objectives in increasing consumer protection and contributing to the proper functioning of the single market.

### 2.1.4. Consumers/EU citizens

**Public consultation**: According to 45% of EU citizens (30 of 66) the PTD is not well adapted to market trends. 46% (31 of 68) stated that the rules on cancellation rights are not sufficiently clear and 34% (23 out of 68) state that they are sufficiently clear. Most EU citizens considered that the provisions on LTAs have not improved the protection for travellers and not contributed to fair competition (63%, 39 of 62 regarding LTA type Article 3(5)(a) and 68%, 41 of 60 regarding Article 3(5)(b)).

**Targeted survey for consumers**: 64% were not aware of the introduction of new package travel rules in 2018. 74% were not aware of the differences between packages and LTAs. 70% book their travels online (e.g., website of a tour operator or travel agency).
13% pay the full amount at booking, 41% pay a deposit at booking and 46% pay the full amount when the trip commences. 77% are aware of their right to claim cash refund in case of cancellation by the tour operator. 34% are aware of their right to transfer the package to another traveller. 64% are aware of the right to seek a price reduction or compensation if there are problems during the trip.

## 2.2 Key feedback regarding the Impact Assessment

### 2.2.1 Feedback provided during stakeholder workshops organised by the external consultant

- 4 participants in the first stakeholder workshop each opposed and supported the idea of a crisis fund at national level. 6 participants opposed the idea of a crisis fund at EU level, against 3 participants who supported the idea.
- Participants in the first stakeholder workshop opposed creating a crisis fund at EU level replacing national insolvency protection systems (0 votes for, 6 votes against).
- Most participants voting in the first stakeholder workshop (11 votes for, 2 against) expressed support for a B2B refund right for package organisers against service providers.

- When asked to vote on preferred measures to strengthen insolvency protection through increased harmonisation, participants in the follow-up workshop expressed interest in the specification of the amounts to be covered, e.g. minimum percentage of turnover (9 votes for, 5 votes against).
- When asked to vote on preferred measures related to back-up funds, participants to the participants in the follow-up workshop expressed interest in a potential EU back-up fund (13 votes for, 3 votes against) compared to national back-up funds (9 votes for, 2 votes against)
- Participants in the follow-up workshop opposed the suggestion of an obligation/encouragement for organisers to offer, alternatively, packages without prepayments (0 votes for, 13 votes against).
- Like in the first workshop, most voting participants in the follow-up workshop supported a B2B refund right against service providers (5 votes for, 1 vote against).

### 2.2.2 Companies and business associations

Companies and business associations voiced the following views and suggestions in their **feedback on the Inception Impact Assessment**:[440]

- There should be a right for organisers to withhold refund to consumers until the service provider refunds the organiser or a B2B refund right with aligned refund periods
- Insolvency protection should cover all reimbursements to travellers, but should exclude payments received from traveller's own insurance or third parties (in particular airlines)
- In principle, opposing to limitation or prohibition of prepayments, and if there should be such a new ban, then only if all travel service providers are also subject to similar rules.
- EU back up or crisis fund supported if not financed only by package travel industry/organisers
- More harmonisation of national insolvency protection systems to avoid distortion of competition and to ensure that a potential EU-support fund works properly
- Calling for strong insolvency protection also for airlines
- Limitation of liability for performance in exceptional circumstances, in particular if traveller was aware of those (and traveller should get additional insurance in that case), i.e. risk should be shared
- Holding payments from organizers to Travel Service Providers on escrow until service completion
- Align APR and PTD regarding cancellation rights and unavoidable and extraordinary circumstances
- Guidelines on travel advice, 'significant changes' under Article 11(2), specifically that this will not apply to flight schedules, which are not controlled by organizers
- Regulation of vouchers for 'ordinary' times (voluntary use) and unavoidable and extraordinary circumstances
- LTAs should be abandoned, as the concept is unclear and not useful. If maintained: "a single visit", "facilitation", "in a targeted manner" to be clarified and relevant forms simplified. Finally, clarity shall be provided on how to comply with rules on insolvency protection when facilitating "in a targeted manner".
- The obligation to provide a standard information form in the pre-contractual phase should also be abolished.
- Distinction between an intermediary and a tour operator should be objective, definitions need clarification and further streamlining to allow the creation of new and innovative business models.
- All business trips and some sports services should be excluded from scope
- The right to charge an administration fee for all the work, if a trip is cancelled due to extraordinary circumstances, which is not possible under the existing law.

**Public consultation**: According to 44% of companies and business associations (161 of 364) the definition of packages should include fewer combinations of travel services, compared to 20% (75 of 364) arguing that the definition should be clarified and 17% (64 of 364) that it should be maintained.
62% of companies and business associations (227 of 367) believe that the PTD should not specifically regulate the consequences of "official travel warnings" for cancellations because of unavoidable and extraordinary circumstances.
50% of companies and business associations agree (182 of 367) (against 47% who disagree, 172 of 367) that the PTD should specify that organisers may issue vouchers instead of a refund within 14 days, provided that a) travellers agree and b) there is a guarantee that travellers will receive their money back if the voucher is not used within its validity period, and c) that vouchers have to be protected against the insolvency of the issuer.
82% of companies and business associations (283 of 344) stated that there should not be any additional provisions on enforcement and fines in the PTD.
35% of companies and business associations (127 of 368) are in favour of the idea that organisers should have the right to a refund against service providers within a specific deadline to enable them to reimburse travellers.
80% of companies and business associations (284 of 359) stated that insolvency protection is sufficient. Only 14% (49 of 359) of companies and business associations state that refund rights against an organiser should be protected in case of insolvency. Only 18% (65 of 359) state that vouchers issued by organisers should be protected in case of insolvency.
80% of companies and business associations (290 of 361) believe that there should be no prohibitions or limitations of prepayments for packages
62% of companies and business associations (174 of 282) agree that prepayments for packages should be prohibited only if other travel service providers, including airlines and other carriers, are subject to similar restrictions.
55% of companies and business associations (200 of 362) state that there should be no crisis fund, believing the cost to travellers would outweigh possible benefits.

In their **position papers**, micro-companies state that the definition of package travel should be further clarified as there is ambiguity and uncertainty as to its scope in relation to how 'other tourist services' are defined. In exceptional circumstances where trips cannot be carried out, such as the Covid-19 pandemic, these companies believe organiser liability should be limited. The submissions explained that risk in the chain is currently imbalanced as travel companies bear full responsibility, which has a significant impact on micro-companies. As these companies frequently work with partners outside of the EU, recovering costs is difficult and legally unenforceable. In some instances, the companies fully reimbursed customers but were left covering the costs for funds already spent with partners who did not provide refunds.

**Targeted Survey with companies and business associations**: 65% (15 of 23) of companies and business associations would agree to a new EU rule that requires service providers to reimburse organisers where the cancellation is justified under the PTD, within a specific time-limit.
64% (9 of 14) would oppose the creation of an EU insolvency protection fund which would replace the existing national insolvency protection systems.
43% of companies and business associations (9 of 21), state that a strict limitation of prepayments (e.g. no down payments, payment at the earliest two weeks before departure) would result in a significant (more than 10%) increase of costs per package.
Most companies and business associations (76% 16 of 21) object to a potential EU rule requiring organisers to offer travellers the option of booking a package without prepayments (until shortly before departure) as an alternative to a package with prepayments.

**Interviews**: Several companies and business associations have emphasized their opposition to any suggestion of limitations on prepayments, underlining their importance to the structure and existence of the industry. Small and large business organisations alike have expressed the importance of prepayments to their business. This reflects the opinions gathered from companies and business associations in the other consultation activities.

**Ad hoc targeted consultations of November, December 2022 and May 2023[441]:** During these consultations, the following information was received from relevant business stakeholders, in particular organisers on one hand and service providers on the other:

- extent of prepayments depends on different factors, including the share of transport in the package, scheduled flights as opposed to chartered flights, traditional tour operator packages as opposed to dynamic packages, but, to some extent, also the Member States concerned
- a **strict limitation of prepayments to organisers and service providers** may lead to cost increases of more than 10% and according to hospitality industry association some hospitality service providers might adapt the prices of their services for inclusion in package or, focus on stand-alone services only
- the average price elasticity for European Tourism is -1,29,
- an association active in the package travel sector estimated the additional time spent on administration at 1 hour per booking if they must justify any higher prepayment (**flexible limitation of prepayments**), according to an organiser a potential price increase is estimated to be 3-4% of the current cost of a package, a service provider estimated 2.5-5%
- According to an organiser, booking takes place on average 6 months before the travel date.
- Service providers indicated that they would (try to) pass 100% of a potential cost increase to travellers
- An organisation representing package organisers does not expect big improvements from a **B2B refund right only if the relevant service cancelled**; they prefer a B2B refund right in all cases.
- An organiser stated that a specific deadline for the refund by service providers would not lead service providers to include a risk premium which would raise the costs of packages.
- While reducing liquidity risks of organisers, **B2B refund right in all cases** would shift these risks to service providers, who would possibly transfer them to travellers by charging a risk premium on services included in packages or even contractually exclude the provision of some services from packages. No impact on prices of stand-alone tickets is expected.
- According to organisers such B2B refund right may lead service providers to reduce their offer of services for inclusion in packages.
- Stakeholders were not able to provide detailed data on the cost impacts, which would be passed on to travellers.
- According to an organiser, the measure is also not expected to have any material impact on the administrative burden of organisers.

### 2.2.3 Public authorities

**Public consultation**: According to 32% (7 of 22) the definition of package should be maintained while 32% (7 of 22) indicated that it should be clarified. 48% (11 of 23) stated that current rules on cancellation rights could be better explained through non-binding guidance, while 39% (9 of 23) stated that the current rules are not sufficiently clear and should be amended.
45% (10 of 22) believe that consequences of "official travel warnings" for cancellations because of unavoidable and extraordinary circumstances should be regulated by the PTD, 32% (7 of 22) do not.

[441] Specific questions were sent to target specific stakeholders (organisers, service providers incl. airlines) to fill in data gaps (see more info Section 1 of this annex: overview of consultation activities)

35% (7 of 20) are not in favour of additional fines and enforcement in the PTD, while 35% (7 of 20) say there should be fines for widespread cross-border infringements with a maximum amount of at least 4% of the trader's annual turnover in the Member State(s) concerned.
According to 83% (19 of 23) the PTD should specify that organisers may issue vouchers instead of a refund within 14 days, if a) travellers agree and b) there is a guarantee that travellers will receive their money back if the voucher is not used within its validity period, and c) that vouchers have to be protected against the insolvency of the issuer.
50% (11 of 22) are in favour of the idea that organisers should have the right to a refund against service providers within a specific deadline to enable them to reimburse travellers. 77% (17 of 22) state that refund rights against an organiser should be protected in case of insolvency and 73% (19 of 22) state that vouchers issued by organisers should be protected in case of insolvency. According to 18% (4 of 22) insolvency protection is sufficient.
33% (7 of 21) believe that there should be no prohibitions or limitations of prepayments for packages. 29% of public authorities (6 of 21) consider that prepayments for packages and LTAs should be limited to a maximum of 20% at the time of booking, with the rest to be paid shortly before departure. 67% of public authorities (14 of 21) agree that prepayments for packages should be prohibited only if other travel service providers, including airlines and other carriers, are subject to similar restrictions. According to 48% (9 of 19) a crisis fund is necessary under the PTD.

**Targeted surveys with national authorities in charge of insolvency protection**: 50% (6 of 12) support a back-up system (e.g. a fund) at EU-level, which would function as a safety net to cover insolvencies of large organisers or waves of insolvencies, where the protection under the national system proves to be insufficient, on the assumption that contributions to such fund would have to come from organisers. 45% (5 of 11) agree with the creation of an EU insolvency protection fund that would replace the existing national insolvency protection systems (18%, 2 of 11 disagree).

**Targeted surveys with national regulatory and enforcement authorities**: According to 68% (19 of 28) the PTD should specify that circumstances occurring at the place of departure (e.g. restrictions on movement or quarantine requirements) can also justify the termination of a package travel contract without fees. 50% (16 of 32) believe that protections on prepayments should be increased, specifically, that this can be best addressed through a review of the PTD, while 28% (9 of 32) believe it can be best addressed through enforcement, and 4 of 32 believe that protection of prepayments does not require further action. 77% (20 of 26) would agree to a new EU rule that requires service providers to reimburse organisers where the cancellation is justified under the PTD, within a specific time-limit. 44%, or 8 of 18 recommend that this time limit be set at 14 days.
41% (11 of 27) are in favour of a new EU rule to require organisers to offer travellers the option of booking a package without prepayments (until shortly before departure) as an alternative to a package with prepayments. 33% (9 of 27) were not in favour of this rule.

**Meeting 10 November of 2022[442] with Central Contact Points (CCPs) as referred to in Article 18(2) PTD**: Regarding possible solutions of the problems regarding insolvency protection, CCPs mentioned the importance of B2B rights and clarification that vouchers are protected (as this would contribute to reduce differences between MS systems).
Some Central Contact Points expressed doubts about a limitation of prepayments: prepayments are specificity of the sector, suppliers would continue requesting it, limitation would harm also small organisers besides potentially raising prices for travellers.
Some reported issues regarding retailers who ask high prepayment but forward only a small part of it to the organiser and in case retailer goes bankrupt, organiser wants to only reimburse only the received amount.

[442] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)

Some found the idea of an EU fund a good solution, referring to the DK and DE systems as positive models. Some others were rather against it for the following reasons: a national guarantee fund has been set up; the national markets are different; effective and efficient national systems are a better solution. According to a Central Contact Point, an EU back-up fund might be too difficult and burdensome to administer.
A contact point considered that the back-up fund is the most important instrument – it creates a level-playing field for all organisers, in particular in light of the fact most organisers are small companies without bargaining power. Some contact points expressed support for more or full harmonisation of the insolvency protection systems. A delegation considers that a possible percentage should be related to the size of the organiser. If turnover is the basis, then seasonality should be taken into account (e.g. ski resorts operating only few months a year). A CCP explained that insurance protection system uses insurance policies calculated based on a comprehensive mathematical formula. All traders provide a full coverage security based on prepayment levels. However, a financially sound organiser, whose risk of insolvency is deemed low, may apply for reduced security.

During the **meeting of 5 December 2022, experts from national authorities**[443] were consulted on potential measures for: vouchers, limitation of prepayments, B2B refund right, crisis fund, insolvency protection, including increased harmonisation of the insolvency protection systems and national/EU back-up funds. In general, experts supported rules on voluntary vouchers. They reported on rules in place in their country regarding prepayment, some expressed worries about the effect of general limitation of prepayments. Some pointed out the difficulty to implement and enforce a potential new B2B rule to suppliers in third countries. Some expressed concerns regarding crisis funds creating additional administrative burden. In their view, having in place insolvency protection systems should be sufficient. As for information of travellers on the role of different traders, several emphasised that the organiser should remain responsible towards travellers, it being important for travellers to clearly understand the role of the parties and to benefit from a one-stop-shop. Several considered that the concept of LTAs should be abandoned as it was difficult to implement and enforce. The unclear rules offered the possibility to organisers to circumvent them while consumers were not aware of their rights. Therefore, no complaints are received in that respect. Some expressed concerns regarding the regulation of travel advice/warnings explaining that there are different types of travel advice/warnings in the Member States that could be issued at different moments, which sometimes could be contradictory. Some did not support the idea of sanctions in line with the Modernisation Directive (EU) 2019/2161, considering that Member States should have flexibility regarding the penalty regime.

### 2.2.4 Consumer organisations

Consumer organisations made the following suggestions in their **feedback on the Inception Impact Assessment**:

- Support for limitation of prepayment, e.g., 20%, 40%-60 or some even called for prohibition
- Prepayments of the travel price should only be requested if the tour operator can also ensure that the package will be carried out. These rights should not exclusively be linked to a concrete travel advice of national authorities, but to the circumstances in the origin and destination countries
- Support for an EU insolvency back-up fund
- Common minimum criteria for national insolvency protection schemes;
- Insolvency protection should cover voluntary vouchers and pending reimbursements;
- Improve information obligations and contact options for travellers (e.g. Should be clear who is organiser/contracting party)

[443] Minutes available at Register of Commission expert groups and other similar entities (europa.eu)

- Contracts cancelled prior to organiser's insolvency must be clearly covered by insolvency - major interpretation disputes
- Clarification of the appropriate time period in which the withdrawal can be declared under Article 12(2). Clarification of the relevance and evidence given through government warnings
- Urgent creation of a legal framework for automated refunds and compensation payments without the need to submit a request
- Support only for voluntary vouchers also covered by insolvency protection and paid out if not used, e.g. within 12 months.
- Clarify that payment to be reimbursed to whoever the consumer paid, regardless of where the money is at that moment.
- Regarding LTAs, simplification and clarification (e.g. clarify concept of "facilitation") needed to discourage abuse
- Clear liability rules for all actors and obligations
- Reimbursement rules and period of 14 days should not be amended
- Better enforcement and raising awareness to traveller's rights is needed
- Align PTD and passenger rights regulations regarding cancellation, refund and insolvency protection

**Public consultation**: According to 57% of consumer organisations (12 of 21) the definition of packages should be maintained, while 24% (5 of 21) favoured more combinations of travel services. 76% (16 of 21) believe that rules on cancellation rights are not sufficiently clear, similarly to other stakeholder groups, including companies and business associations, public authorities and EU citizens. 75% (15 of 20) are in favour of additional fines and enforcement in the PTD. 55% (11 of 20) also believe that there should be fines for widespread cross-border infringements with a maximum amount of at least 4% of the trader's annual turnover in the Member State(s) concerned.
81% (17 of 21) believe that the consequences of "official travel warnings" for cancellations because of unavoidable and extraordinary circumstances should be regulated by the PTD, in opposition to the opinion voiced by companies and business associations.
According to 76% of consumer organisations (16 of 21) the PTD should specify that organisers may issue vouchers instead of a refund within 14 days, if a) travellers agree and b) there is a guarantee that travellers will receive their money back if the voucher is not used within its validity period, and c) that vouchers have to be protected against the insolvency of the issuer.
48% (10 of 21) are in favour of the idea that organisers should have the right to a refund against service providers within a specific deadline to enable them to reimburse travellers.
Only 5% of consumer organisations (1 of 21) stated that insolvency protection is sufficient. 86% (18 of 21) believe that refund rights against an organiser should be protected in case of insolvency and 95% (20 of 21) believe that vouchers issued by an organiser should be protected in case of insolvency. 52% (11 of 21) state that claims for price reduction or compensation for improper performance existing before an organiser becomes insolvent should be protected in case of insolvency.
No consumer organisation (0 of 21) selected the option that there should be "no prohibitions or limitations of prepayments for packages." 86% (18 of 21) disagree that prepayments for packages should be prohibited only if other travel service providers, including airlines and other carriers, are subject to similar restrictions. 81% of consumer organisations (17 of 21) believe that a crisis fund is necessary in the PTD.

**Targeted survey with consumer organisations**: 45% stated that they would not be in favour of creating an EU insolvency protection fund which would replace existing national insolvency protection systems, against 9% (1 of 11) who would be in favour. When asked which measures to improve the effectiveness, efficiency and sustainability of insolvency protection they would support, 58% (7 of 12) stated that insolvency protection for each organiser should cover a specific minimum

percentage of the organiser's annual turnover, e.g. 15-25%. According to 75% (9 of 12) the PTD should specify that Member States must require that insolvency protection covers a sufficiently large share of the organiser's turn-over to ensure that an insolvency at the period of the year with the highest risk exposure is fully covered. 92% (11 of 12) stated that guarantee funds should have a buffer for bad times or be able to obtain liquidity on short notice and be obliged to refill the fund, if required. 92% (11 of 12) also stated that insolvency protection bodies should be obliged to refund prepayments within a specific period (e.g. within 90 days) after the traveller requests it. Finally, 75% (9 of 12) support an obligation for Member States whose insolvency protection system relies on insurance policies or bank guarantees to be obliged to create back-up funds.

According to many consumer organisations **interviewed** the effectiveness of the sanctions and enforcement in the PTD could be improved to better protect consumers. Similarly to companies and business associations, several consumer organisations believe that the PTD should be better aligned with the Air Passenger Rights Regulation in the future.

### 2.2.5 Consumers/EU citizens

**Public consultation**: 35% of EU citizens (24 of 68) held the view that the definition of package should include more combinations of travel services, 28% (19 of 68) that it should be maintained and 26% (18 of 68) that it should be clarified. 41% (26 of 63) support additional fines and enforcement in the PTD; 41% (26 of 63) believe that there should be no additional fines and enforcement in the PTD. According to 63% (43 of 68) the consequences of "official travel warnings" for cancellations because of unavoidable and extraordinary circumstances should be regulated by the PTD. 66% (44 of 67) believe the PTD should specify that organisers may issue vouchers instead of a refund within 14 days, provided that a) travellers agree and b) there is a guarantee that travellers will receive their money back if the voucher is not used within its validity period, and c) that vouchers have to be protected against the insolvency of the issuer. According to 51% of EU citizens (35 of 68) organisers should have the right to a refund against service providers within a specific deadline to enable them to reimburse travellers and according to 44% (30 of 68) there should be no prohibitions or limitations of prepayments for packages. 60% (39 of 65) believe that a crisis fund is necessary in the PTD.

## 3. USE OF STAKEHOLDER FEEDBACK

The results from the consultation activities have fed into the evaluation (Annex 13) and IA from problem definition to possible options and their impacts. Several references to the feedback can be found in the text as well as in the footnotes. In addition, even if not explicitly referenced in the main report or the evaluation, all the above-described stakeholder feedback provided valuable input and thus informed the process and the focus of the assessment.

In addition to the topics examined in the impact assessment, some business stakeholders called for[444]:

- Complete exemption of business travel from the scope of the PTD (i.e. not only in case of general agreements), Article 2(2)(c)[445]
- Narrowing of definitions of travel service (Article 3(1)) and of package (Article 3(2)) (e.g. specific (sport) services or SME hotels should be excluded)

[444] For example, in position papers and free text replies such as to (Q9) as well as replies to close-ended questions (see next footnotes) in the public consultation.

[445] Raised for example in position papers and free text replies submitted in the public consultation, in particular in the coordinated replies of a number of Dutch SME respondents (See Section 1. on general information about public consultation respondents).

All these ideas would result in a narrower scope of the PTD. The first suggestion would lower the protection for small businesses booking travel arrangements for themselves or for their employers. As explained in recital 7, these SME travellers require the same level of protection as consumers.

Any measure limiting the scope, including the definition of package, would inevitably result in a lower level of consumer protection, in some cases falling back behind the protection level of the 1990 Directive and compromising one of the main objectives of the Directive. Consumer organisations clearly oppose any such measure, and many businesses do not support such ideas either.[446] Furthermore, the limited evidence for the alleged problems or the absence of proposed solutions made it difficult to take these up in the impact assessment. However, such points are usually referred to in the evaluation.

Some consumer organisations called for creation of a legal framework for automated refunds and compensation payments without the need to submit a request. However, under Article 12(4) PTD, the 14-day refund period is triggered by the termination of the contract and the traveller is not required to make an additional refund request already today. If it were to be stated explicitly in Article 12(4) that no specific refund request is required, to make this even clearer, this would not change the substantive law and would thus not require an assessment of impacts.

Furthermore, consumer organisations indicated a preference for new rules on information about the environmental impacts of package travel, like on the CO2 footprint of travel packages. Business stakeholders and public authorities largely opposed such rules. At least for the time being, it was concluded that such specific issues are better addressed by sector-specific legislation and that there should first be an agreement on the methodology of calculating the CO2 footprint.[447]

[446] Public consultation Q5: 57% of consumer organisations (12 of 21) and 16% of companies (51 of 316) indicated that the definition of a 'package' should be maintained. See also BEUC's position paper submitted to the public consultation, requesting that the definition should be kept broad. According to 45% of companies (143 of 316) and 18 of 48 (38% of) business associations the definition of 'package' should cover fewer combinations of travel services, without any consumer organisations in favour of this point. The rest of the business respondents was almost equally divided between the following replies: It should be maintained, It should clarified or It should cover more combinations.

[447] Public consultation Q31: 15 of 20 consumer organisation called for such rules: According to 8 "The PTD should oblige traders to inform travellers about the environmental footprint of packages before booking.", and according to 7 "There should be information on the environmental footprint of packages (as in the previous option). In addition, the PTD should help reduce the environmental impacts of travel and tourism also in other ways." However, overall, 81% (391) of the 477 respondents confirmed that no such rules are necessary and that environmental impacts should be regulated in sector-specific legislation. Among them: 16 of 22 public authorities, 40 of 49 business associations, 271 of 304 companies.

# ANNEX 3: WHO IS AFFECTED AND HOW?

## 1. PRACTICAL IMPLICATIONS OF THE INITIATIVE

The revision of the Package Travel Directive primarily affects the following stakeholders: package travel organisers, travellers, public authorities, and to a certain extent service providers such as airlines and/or hotels (for instance, in relation to the B2B refund right proposed).

For the preferred option, the overall practical implications have been assessed for each group of stakeholders. In summary, stakeholders would face the following practical implications:

Package organisers would to some extent face moderately higher costs, in particular in Member States where there are currently no limitations of prepayments at all and/or where vouchers and refund claims are currently not covered by insolvency protection. At the same time the liquidity of organisers would be protected through the rules on vouchers and the B2B refund right, and they would overall benefit from more legal certainty. Businesses – mostly organisers, but to some extent also service providers – would have to familiarise themselves with the new rules and adapt some internal processes to comply. Service providers will need to ensure that they refund organisers within 7 days. Overall, organisers will need to ensure clearer information of travellers on their rights.

Public authorities would be required to transpose the changes to the PTD into their national legislation. They will also need to get familiar with the new rules in order to effectively monitor the implementation by companies.

Also, travellers will benefit from more legal certainty and the closing of certain gaps in the legislation. It will become easier for them to obtain and understand the information on their rights and whom to turn to in case of problems. In addition, any refund claims or vouchers they receive will be protected against the insolvency of the organiser everywhere in the EU. They will hence enjoy even higher consumer protection than now, and more evenly so across borders (which would thus help widen their consumer choice of PT services across internal borders).

It is important to note that, besides consumer benefits that we sought to quantify below, there are further expected direct or indirect non-quantified benefits, not just as regards Consumer rights but also with respect to Fundamental Rights and some UN Sustainable Development Goals, which are further detailed in annex 10 below (based on the related BR tools' checklists).

## 2. SUMMARY OF COSTS AND BENEFITS

| **I. Overview of Benefits[448] (total for all provisions) – Preferred Option** | | |
|---|---|---|
| ***Description*** | ***Amount*** | ***Comments*** |
| ***Direct benefits*** | | |
| Reduction of consumer detriment in view of lower prepayments. | At least EUR 168.8 million per year. | The limitation of prepayments will improve the travellers' liquidity, as they will be able to dispose of their funds for a longer period before making the full payment. In addition, and more importantly, it |

[448] Notwithstanding very elaborate consultations with stakeholders (i.e. public consultation, several targeted consultations and meeting, several workshops), stakeholders have not provided any quantitative data that would permit to assess quantitatively the expected benefits and costs of any options, including the preferred option. The (qualitative and as far as available quantitative) information provided by stakeholders is described in detail in the assessment of impacts of individual measures in Section 6. As a result, the cost-benefit assessment presented here could only be made on a qualitative basis.

| | | |
|---|---|---|
| | | will reduce the amount at risk of not being refunded in case of a cancellation.<br>For the quantification a reduction of 5 percentage points of the average prepayments for packages was assumed. In addition, it was considered that 4.4% of packages are affected (in normal times) by financial loss. |
| Voluntary crisis fund at national level | Assessed qualitatively | If a national crisis fund is introduced, travellers will face less risks of not obtaining refunds in case of cancellations due to unavoidable and extraordinary circumstances. |
| Reduction of consumer detriment in view of timelier refunds. | Assessed qualitatively | Travellers will receive quicker refunds due to the introduction of the reduction of prepayments and the B2B refund right. No quantified data available. |
| Increased liquidity for organisers. | Assessed qualitatively | The introduction of the rules on vouchers and the B2B refund right will improve the organisers' liquidity, as they will quicker receive refunds from service providers and will be able to extend the period for refund to travellers by proposing vouchers. No quantified data available. |
| Introduction of voluntary vouchers – clarification benefits for travellers | Assessed qualitatively | There will be clarification benefits for traveller from the rules on voluntary vouchers, hence improving consumer protection. |
| Strengthened insolvency protection and coverage of vouchers and refund claims | Assessed qualitatively | Coverage of vouchers and refund claims by insolvency protection will improve consumer protection and increase the acceptance rate for vouchers, thus improving organisers' liquidity in case of crisis. |
| Increased ease of doing business and reduction in consumer detriment in view of clarifications. | Assessed qualitatively | The clarifications and specifications of several provisions in the PTD will provide clarification benefits to all stakeholders. No quantified data available. |
| ***Indirect benefits*** | | |
| Possible decrease in insolvency protection costs for organisers. | Assessed qualitatively | Limitation of prepayment will apply to all package organisers offering services to consumers in the EU, whether the firms are based within or outside the EU. Therefore, this measure will not result in an uneven playing field and will hence not affect negatively their international competitiveness. Approximately 112 000 EU package organisers (99% of which are SMEs) would be affected.<br>The limitation of prepayments may, over time, result in a decrease in insolvency protection costs for organisers, which will be beneficial for their competitiveness. No quantified data available. |
| Possible costs savings related to monitoring of compliance by Member State authorities. | Assessed qualitatively | The simplification of several provisions and introduction of clearer criteria in the PTD may result in easier monitoring, less traveller complaints and potentially lower litigation costs. No quantified data available. |
| Administrative cost savings related to the suppression of LTAs type (a) | At least EUR 181.4 million per year. | The suppression of LTAs and related administrative simplification will result in organisers spending less time on choosing the right information form, thus reducing their administrative burden. |

| | | |
|---|---|---|
| | | The gains for organisers were calculated assuming a gain of 5 minutes per booking for choosing the right form and using the average wage for all the undertakings concerned. |
| Administrative cost savings for public authorities through easier monitoring | Assessed qualitatively | The simplification of several provisions and introduction of clearer criteria in the PTD is likely to result in easier monitoring, thus reducing the administrative costs for Member State authorities. No quantified data available |
| ***Administrative cost savings related to the 'one in, one out' approach**** | | |
| Recurrent (direct) | At least EUR 181.4 million per year. | Administrative cost savings related to the suppression of LTAs type (a). |
| One-off | - | - |

| **II. Overview of costs – Preferred option** | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | **Citizens/Travellers** | | **Businesses** | | **Administrations** | |
| | | **One-off** | **Recurrent** | **One-off** | **Recurrent** | **One-off** | **Recurrent** |
| For all measures taken together | Direct adjustment costs | - | - | - | - | Approx. EUR 60.5k (transposition)[449] | - |
| Measure 1.1.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | 100% pass-through of cost increases for organisers to travellers through package price increases; EUR 332.1 million. | - | - | - | - |
| | Direct adjustment costs | - | - | - | - | - | - |

[449] Based on estimates in the ICF study.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Measure 1.2.1[450] | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | EUR 0 – the measure would be cost-neutral in the long-term | - | - |
| | Indirect costs | - | - | - | - | - | - |
| Measure 1.3.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | - | - | Not expected to lead to any risk premium charged by service providers | - | - |
| Measure 1.4.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | Costs, if any, minimal. EUR 0 | - | - |
| | Indirect costs | - | - | - | - | - | - |
| Measure 2.1[451] | Direct adjustment costs | - | - | - | - | - | - |

[450] Measure 1.2.1 concerns the voluntary introduction of a crisis fund at national level. Considering its voluntary nature, it is impossible to foresee how many Member States may wish to implement such a fund. At present, this has only been done by Poland, with recourse to State aid, by incorporating this fund in an existing fund structure. Hence, the set-up costs for the Polish authorities were negligible. In case other Member States decide to start a crisis fund, they may choose a similar or a totally different structure. Such choice will have consequences for the administrative costs of public authorities, but also for the regulatory fees (and potentially administrative costs) requested from companies. For these reasons, it is not possible to estimate the potential average costs, and consequently the potential total costs that this measure may entail for the stakeholders in Member States that implement it. Therefore, these costs are not included in the table.

[451] Measure 2.1 includes the possibility to introduce a voluntary insolvency back-up fund at national level. At present, only a few Member States have a back-up fund, often with recourse to State aid. Considering its voluntary nature and the differences in the set-up of national insolvency protection systems, it is impossible to estimate how many Member States may wish to implement such a fund. It is also impossible to foresee what structure and set-up they may choose for such

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | Direct administrative costs | - | - | - | Possible cost impact in some MS due to covering vouchers and refund claims by insolvency protection. No quantified data available, but the costs are considered reasonable by 30% business respondents and 45% of insolvency protection bodies.[452] | - | |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | Possibility that prices of packages might rise. No quantified data available. | - | Potentially higher insolvency protection costs. No quantified data available. | - | - |
| Measure 3.1.1 | Direct adjustment costs | - | - | Familiarisation with the new provisions. | - | - | - |

fund. Such choices will have consequences for the administrative costs of public authorities, but also for the regulatory fees (and potentially administrative costs) requested from companies. For these reasons, it is not possible to estimate the potential average costs, and consequently the potential total costs that the – voluntary – introduction of a national back-up fund may entail for the stakeholders in Member States that implement it. Therefore, these potential costs are not included in the table.

[452] Targeted survey for business associations, Q18 (N=10): in relation to the question if the costs of coverage of vouchers by insolvency protection would be reasonable, 1 company strongly agreed (10%), 2 tended to agree (20%), 4 strongly disagreed (40%) and 3 did not know (30%); in relation to the costs of covering refund claims being reasonable: 2 respondents tended to agree (20%), 5 strongly disagreed (50%) and 3 did not know (30%). Targeted survey for insolvency protection bodies, Q4 (N=11): in relation to the question if the costs of coverage of vouchers by insolvency protection during major crisis would be reasonable, 1 respondent strongly agreed (9%), 4 tended to agree (36%), 1 tended to disagree (9%) and 5 did not know (45%); in relation to the costs of covering refund claims being reasonable: 4 respondents tended to agree (36%), 1 tended to disagree (9%), 1 strongly disagreed (9%) and 5 did not know (45%). Targeted survey for business associations, Q18 (N=10): in relation to the question if the costs of coverage of vouchers by insolvency protection would be reasonable, 1 company strongly agreed (10%), 2 tended to agree (20%), 4 strongly disagreed (40%) and 3 did not know (30%); in relation to the costs of covering refund claims being reasonable: 2 respondents tended to agree (20%), 5 strongly disagreed (50%) and 3 did not know (30%). Targeted survey for insolvency protection bodies, Q4 (N=11): in relation to the question if the costs of coverage of vouchers by insolvency protection during major crisis would be reasonable, 1 respondent strongly agreed (9%), 4 tended to agree (36%), 1 tended to disagree (9%) and 5 did not know (45%); in relation to the costs of covering refund claims being reasonable: 4 respondents tended to agree (36%), 1 tended to disagree (9%), 1 strongly disagreed (9%) and 5 did not know (45%).

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | Approx. EUR 6.5 million[453] Possible minor costs for creation email address or webform for contacts in cases where traders do not have them yet. | | | |
| | Direct administrative costs | - | - | - | - | - | |
| | Direct regulatory fees and charges | - | - | - | Potential new costs for companies that would be considered organisers. No quantified data available. | - | - |
| | Indirect costs | - | Possibility of small hassle costs related to transmission of information to service provider in relation to LTAs type (b). No quantified data available. | - | - | - | - |
| Measure 3.2.1 | Direct adjustment costs | - | - | - | - | - | - |
| | Direct administrative costs | - | - | - | Negligeable costs. EUR 0 | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | - | - | - | - | - |
| Measure 3.3.1 | Direct adjustment costs | - | - | Negligible one-off administrative impact. EUR 0 | - | - | - |

[453] Assuming that each company would need 2 hours to do so and based on wage assumptions made by the consultant in the supporting study.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | Direct administrative costs | - | - | - | - | - | - |
| | Direct regulatory fees and charges | - | - | - | - | - | - |
| | Indirect costs | - | - | - | - | - | - |
| ***Costs related to the 'one in, one out' approach*** | | | | | | | |
| **Total** | Direct and indirect adjustment costs | EUR 0 | EUR 0 | EUR 0 | EUR 0 | | |
| | Administrative costs (for offsetting) | EUR 0 | EUR 0 | EUR 6.5 million[454] | EUR 0 | | |

## 3. RELEVANT SUSTAINABLE DEVELOPMENT GOALS

| **III. Overview of relevant Sustainable Development Goals – Preferred Option(s)** | | |
|---|---|---|
| **Relevant SDG** | **Expected progress towards the Goal** | **Comments** |
| SDG no. 8 - Promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all | The proposed measures will contribute to the ease of doing business for package organisers, thus facilitating the growth of SMEs. | This contributes to Target 8.3 "Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services". |
| SDG no. 10 – reduced inequalities | By facilitating better information provision by organisers and better protection of travellers' rights, the preferred policy option will result in more equal position of all travellers in the EU. | Contributes to Target 10.3 "Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard." |
| SDG no. 16 – peace, justice, and strong institutions | The clarifications of several provisions in the PTD will reduce inequalities between travellers from different Member States and likely decrease the number of travellers needing to have recourse to dispute resolution or legal procedures. | This contributes to Target 16.3 "Promote the rule of law at the national and international levels and ensure equal access to justice for all" and Target 16.b "Promote and enforce non-discriminatory laws and policies for sustainable development" |

[454] Considering that each company would need 2 hours to get to know the new provisions and Annexes to the Directive and based on wage assumptions made by the consultant in the supporting study.

# ANNEX 4: ANALYTICAL METHODS

## 1. METHODOLOGY OF THE STUDY TO SUPPORT THIS EVALUATION AND IMPACT ASSESSMENT[455]

### Overview

The study has relied on data from a combination of desk-based research, EU statistics, public consultation, targeted surveys, consumer survey, interviews with a wide group of relevant stakeholders and workshops.

### Literature review

Targeted desk research focused on the evaluation and impact assessment research frameworks. It followed the main research questions and sub-questions, as well as the main indicators of the research frameworks. Findings from desk research have been triangulated with the evidence collected through the public consultation, the scoping interviews, interviews with stakeholders, the targeted surveys and the workshops.

In addition, the study team reviewed a list of documentation (see Annex 1 to the study) independently researched or received from DG JUST. The desk research included also legal research to help map and assess the state of play of the transposition and application of the PTD in the EU-27 Member States and EEA countries.

### Social media listening

The consultant's in-house data scientist team performed a social media listening exercise. Through data science techniques, the team extracted background information from Twitter relating to consumer experiences with travel packages and LTAs and their main relevant dimensions (e.g., vouchers, refunds). This included a preliminary "sentiment analysis" of consumers' satisfaction. This exercise combined consumer experiences with travel packages and LTAs together with their opinions/reactions as expressed on social network Twitter. It included the following tasks:

- Collecting and merging key hashtags relating to travel package, LTAs, and PTD main concepts;
- Translating hashtags and other keywords into all EU27/EEA official languages;
- Collecting 3.291 tweets from EU27/EEA countries;
- Developing illustrative visuals presenting the degree of satisfaction of consumers vis-à-vis the main concepts of the PTD.

### Public consultation

The external consultant provided analysis of the closed questions, in form of excel tables and word summaries, following discussions with DG JUST. The study also included an analysis of some open-ended questions and position papers that fed into the final report of the study.

For further details regarding the public consultation, see Annex 2, section 1 "Overview of consultation activities" and section 3 "Other methods" of this annex.

[455] ICF Study, not yet published (see full reference in footnote 11)

**Targeted consultations, Interviews, Workshops**

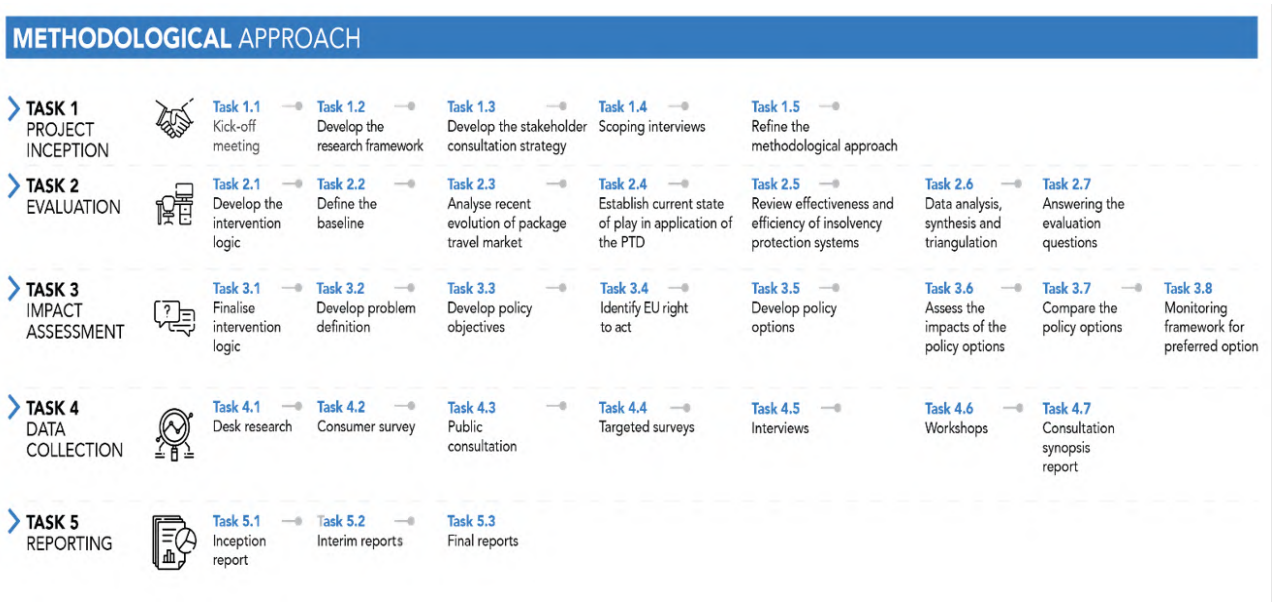
See Annex 2, section 1. Overview of consultation activities.

The following section outlines the main methodological steps followed by the external consultant, and the main decisions on the study that were taken together with DG JUST.

**Task-by-task methodology for the back-to-back evaluation**

This study lasted 12 months during which five main tasks were performed (see Figure 5), several sub-tasks, for which a full breakdown is provided in this section. As the study supported a back-to-back evaluation and impact assessment, the main tasks of the study, especially, Task 4 (Data collection) were carried out in parallel, for both the evaluation and the Impact Assessment (hereinafter "IA"). A logical sequence between the evaluation and the IA were respected to the maximum possible extent, with the findings of the former constituting the starting point for the assessment performed in the latter. The figure below provides an overview of the task-by-task methodology for the back-to-back evaluation and impact assessment.

Task-by-task methodology for the back-to-back evaluation and impact assessment




*Source: ICF*

### Inception

The inception phase laid the foundations for the study and aimed at promoting a common understanding of the context, priorities and expected results between the Commission and ICF, as well as reaching a common view on the most appropriate method for the back-to-back study. The entire approach to the study was structured in line with European Commission guidelines on impact assessment, as set out in the EC Better Regulation Guidelines (BRG) and Toolbox (updated in November 2021).

#### *Kick-off meeting*

The kick-off meeting was held on 17 February 2022 in the form of a videoconference. Representatives from the ICF study team, responsible Commission departments participated to the

meeting that provided an opportunity for the two project management teams to introduce themselves and to discuss the work plan, explain and clarify the tasks and the approach and discuss the content of the study reports.

#### *Research framework*

ICF reworked and refined the research frameworks presented in the Technical Offer and reiterated in the Inception Report. The research frameworks constitute the guiding principle of each study carried out for the Commission services and, thus, requiring careful design at inception phase. In this phase, ICF refined the study questions, the indicators to be used for the assessment of the questions, the success criteria, and the methods to be applied for data collection and analysis and, where relevant, the foreseeable risks and the related mitigation measures. As part of the revision of the research frameworks, the study team, *inter alia*, provided a reasoned restyle of the main clusters of research questions, suggesting amendments to the original research questions as included in the Tender specifications, Technical Offer, and Inception Report.

ICF submitted three main research frameworks, namely (a) Background study research frameworks, (b) Evaluation framework, (c) Impact Assessment framework, and a draft template for the legal research in date 29 February 2022 (ICF uploaded the documents on Teams and confirmed this with DG JUST via email). DG JUST enabled the ISSG group for the revision of the research frameworks, resulting in several rounds of revisions, and an extensive mole of comments received from all Commission services part of the ISSG. This resulted in 7 versions of the research frameworks that were finally validated by DG JUST only in July 2022.

#### *Task 1.3: Stakeholder consultation strategy*

The stakeholder consultation served to collect information and insights from a wide range of stakeholder groups. See Section 2.2 for the full breakdown of the stakeholder groups consulted as part of the study.

##### *Stakeholders' register and stakeholder tracker*

From an operational perspective, ICF prepared during the inception phase a list of stakeholders to be consulted, broken down by categories. This list was prepared in the form of an Excel Table named 'Stakeholders register', which has been compiled iteratively, by putting together information stemming from desk research, including contacts from previous studies with DG JUST and the wider European Commission. DG JUST supported ICF by providing, for instance, contacts of the Central Contact Points responsible for insolvency protection systems, upon reception of consent for the transmission of information related to personal data (name, profession, organisation and contact details) to ICF, which DG JUST had obtained beforehand. The register also underwent several rounds of checks, revisions, and refinements, resulting in rounds of exchanges between DG JUST and ICF.

The stakeholder register was maintained throughout the study and updated with new stakeholders, as applicable.

##### *Preparation of the interview topic guides*

At inception phase of the study, ICF initiated the design of the interview protocol that have been presented in the Inception Report in full detail. A key part of the interview process is represented by the *Topic Guides*, which are tools that guide the interviewers to shape the interviews by following a certain structure, ensuring that appropriate information is collected from each stakeholder. Topic

guides focused on the content relevant to the research questions that each stakeholder group is expected to contribute to. The topic guides prepared in the context of the PTD study were three: (i) Member State authorities (for a. regulatory and enforcement bodies, and b. insolvency protection authorities), (ii) Business organisations/associations, and (iii) Consumer organisations.

ICF prepared a preliminary list of topics per stakeholder types to be considered in the framework of the topic guides in date 26 May 2022, with the corresponding draft topic guides that were sent in June 2022. The topic guides underwent several rounds of revisions, resulting in extensive rounds of comments, culminating in up to 9 versions of the topic guides. The topic guides were approved, on different dates, across September/October 2022, thus, with a significant delay in relation to the study plan. This situation delayed the conclusion of the Inception phase of the project.

#### *Task 1.4: Scoping interviews*

Scoping interviews allowed ICF to get a better understanding not only of the key issues to be addressed by the evaluation and impact assessment, but also helped flagging any elements that require further clarification and start mapping relevant stakeholders and documentation (see Section 2.2 for additional information).

#### *Task 1.5: Refining the methodological approach*

The aim of this task was to refine the approach to the evaluation and IA study, based on the feedback received at the kick-off meeting, the scoping interviews, and the research framework. The key aspects of the evaluation and study that needed revision included the research questions, intervention logic, the problem statement and policy objectives, as well as the tools for the consultation (including the draft interview guides and survey questions).

### Task 2: Evaluation

The purpose of this Task was to provide a thorough and clear explanation of how key tasks can support DG JUST's evaluation of the PTD in its Staff Working Document.

#### *Task 2.1: Develop the intervention logic*

The draft intervention logic for the evaluation, was finalised outside the inception report, and underwent several rounds of revisions and discussions upon between the study team and DG JUST. The draft of the intervention logic was used as a dynamic tool that was further refined over the course of the evaluation, in line with the Better Regulation Guidelines.

#### *Task 2.2: Define the evaluation baseline*

As per the Better Regulation Guidelines, the baseline of an intervention should be clearly identified in evaluations of EU legislation, policies and programmes which will allow comparison over time. At sub-task 2.2 the study team defined the baseline period of the evaluation, including the different timeframes around which the analysis would have been organised. Task 1 fed into the definition of the evaluation baseline.

In agreement with DG JUST, the general periodisation of the evaluation (reflected in the data collection tools) was as follows: (a) At the time of 2013 Impact assessment (*baseline*); (b) 2013-July 2018; (c) July 2018-outbreak of COVID-19 in 2020; (d) Since COVID-19 to the present day.

#### *Task 2.3: Analyse the market practices and developments*

Linked to Task 2.2 under this Task, the team carried out a thorough analysis of market practices and developments. The evidence from this task fed both the Baseline part of the evaluation and Annex X. The output of this task fed directly into the evaluation part of the interim and final reports, with a dedicated section on the market situation and developments. In terms of the approach to the research (what kind of information is collected, and how) this is explained in detail in the data collection Task 4, in particular Task 4.1 of the Inception Report.

### *Task 2.4: Establish the current state of play in the application of the Directive*

This task consisted of two main steps. The first step was to provide an overview of the practical application of the Directive, and the second step was outlining the key issues.

*Mapping of the state of play of the Directive.*

The mapping covered all EU/EEA Member States. Besides the practical implementation measures adopted in the Member States, the study team mapped guidance and documentation that has been developed to facilitate implementation in each Member State as well as any relevant case-law. The output of this overview has been a comparative overview, building on the conformity assessment reports.

*Analysis of key issues*

The next step aimed to provide a detailed analysis of the extent to which the provisions of the Directive have been implemented in practice. In case a provision of the Directive has in fact not been implemented, we identified the underlying reason/s (e.g., gaps, omissions, ambiguities in the wording of the Directive). In terms of output, the evaluation team added the findings in the reports. The comparative analysis indicated how provisions have been implemented and identified any obstacles or problems, as well as any national implementation strategies and guidelines.

### *Task 2.5: Review of efficiency and effectiveness of existing insolvency protection systems*

Building on the pool of documentation provided to ICF by DG JUST, ICF analysed the baseline features on the efficiency and effectiveness of the insolvency protection systems across the EU/EEA Member States/countries. This resulted in a section added to the Baseline (see Section 2.4.1) that should read in conjunction with the analysis of EQ3 under Effectiveness, in the evaluation.

### *Task 2.6: Data analysis, synthesis and triangulation*

In this task, the study team performed the data analysis, synthesis and triangulation, by following the methodology indicated in the inception report. The completion of this crucial step of the study occurred only in the Draft Final Report/Final Report stage, due to the time needed for the validation of the data collection tools. The later launch of the survey questionnaires and consumer survey also pushed back the analysis and synthesis of data.

### *Task 2.7: Answer the evaluation questions*

Following the synthesis and triangulation of the evidence, ICF built a structured and clear elaboration of responses to each evaluation question. The main findings emerging from this exercise are reflected in the First Interim Report, Second Interim Report, Draft Final Report, and Final Report. The approach will follow the standards set out by the Better Regulation Guidelines (see Inception Report for a detailed breakdown of the methodology).

## Task 3: Impact Assessment

The aim of Task 3 was to go through the logical steps of an Impact Assessment and how this could feed directly into DG JUST's impact assessment. This was done through a series of tasks that follow the outline of the impact assessment by defining the problem, policy objectives, assessing the EU's right to act, develop the policy options, assess the impacts and compare.

### *Task 3.1: Finalise the intervention logic and the problem tree*

As part of Task 3.1, the study team finalised the intervention logic of the PTD, and its problem tree listing the main problems (general and specific problems, at times also operational problems), which are linked to consequences if left unaddressed. The consequences are then visually directed to the policy objectives (at strategic/general, specific and possibly operational level). This helped to sketch the problems, their consequences and how the Commission aims to address them. A preliminary problem tree was discussed and approved with DG JUST in the early stage of the study at inception phase. A final version of the problem tree was then discussed with the stakeholders from the sector in occasion of ICF WS1 of the PTD (26 October 2022).

### *Task 3.2: Develop the problem definition*

In this task, the study team set out the problems and their drivers and the objectives of the intervention, thereby covering Steps 1 and 3 of the IA process according to the Better Regulation Guidelines. The problem definition was initially based on Commission's detailed information already provided in the tender specifications, the Roadmap/IIA[456] and the preliminary problem tree shared with ICF at the inception stage of the study. The analysis carried out in the problem definition has been stabilised and completed throughout the course of the whole sub-tasks of the data collection and included in the Final Report.

### *Task 3.3: Develop the policy objectives*

At sub-task 3.3., the study team defined the objectives, in order to inform the design of the proposed policy options and the selection of key criteria to be used in assessing their impacts. In this case, the general objective of the intervention had already been specified in the Commission's Roadmap, which states that the general objective "is to contribute to the proper functioning of the internal market and to better ensure a high level of consumer protection including in times of crisis".

### *Task 3.4: Assess the EU right to act*

In this task, we confirmed the legal basis, including as regards any further element of EU action envisaged when reviewing this legislation to address the problem and problem drivers identified, following the approach described in the BRG (Tool #5). This included (i) verifying whether the Union has exclusive competence or not, (ii) performing the necessity/relevance test and (iii) performing the added value test. The task has been supported by the study team's legal experts.

### *Task 3.5: Develop the policy options*

The process of identifying and defining the options began with a list of all the possible measures that could be introduced to address the identified problem drivers and contribute to the achievement of the desired objectives. The development of the policy options was done as an iterative process of

[456] See: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13117-Package-travel-review-of-EU-rules_en

screening and narrowing down the options, with the final choice of measures and options finalised by Commission before assessing their impacts.

Potential individual policy measures were discussed by ICF and the Commission on various occasions, starting from March 2022. The measures were presented by ICF to stakeholders at WS1 on the PTD in October 2022 and at WS2 early in December. ICF combined the individual measures into 3 options.

*Task 3.6: Assess the impacts of the options*

At Task 3.6 ICF assessed the social, economic, fundamental rights and environmental impacts of the policy options for the possible revision of the PTD. For the detailed method of approach of this task, please see Technical Offer, and Inception Report.

*Task 3.7: Compare the policy options*

In this step, ICF assessed all significant impacts that were not considered in the cost-benefit analysis of the baseline scenario nor of each other options. Where possible, this was done quantitatively and if not, then qualitatively. For the detailed method of approach of this task, please see Technical Offer, and Inception Report.

*Task 4.2: Consumer survey*

In this task ICF and Dynata worked closely with DG JUST to design and launch the consumer survey part of the study, whose methodological bases were presented in the Inception Report and are not replicated here. The first draft of the consumer survey was provided on 16 of June and finalised after various modifications in September. The consumer survey was completed in January 2023.

## 2. ANALYSIS AND PROCESSING OF THE RESULTS OF THE PUBLIC AND TARGETED CONSULTATIONS

In addition to the methods described under section 1 of this annex, DG JUST used excel tables to analyse and process the results of the public consultation. For example, with the help of export as table or as statistics function of the EUsurvey tool as well as of the DORIS tool developed by DG CNECT. Statistics were produced for all respondents as well as for subgroups of respondents, based on their answers to questions in the first section, "About you", of the questionnaire. In addition to the standard questions in this first section, companies and business associations were asked to indicate their main activity/ies from a list that included: package organiser, package retailer as well as other option (see the outcome of this question in Annex 2, section 1.) The replies were used to provide further granularity to the analysis of certain questions. However, since many traders indicated more than one activity, the replies when looking at for instance organisers vs service providers were not very meaningful as the vast majority (also) indicated being an organiser, hence the trends in replies were similar as when looking at all companies. Looking at those which only selected one activity ("pure traders"), the number of responses became too low to draw meaningful conclusions; we still reported this additional information whenever relevant in the report's footnotes.

A similar approach, with similar challenges and conclusions, was taken to get more granular results from the targeted business survey.

## 3. JUSTIFICATION OF BASELINE ESTIMATES AND METHODS USED FOR CALCULATIONS

DG JUST has used a combination of official statistics (Eurostat) and industry data (financial accounts published by companies in the sector) in gauging the baseline estimates.

On the benefits side, the most important gains are assessed qualitatively as explained below. There is a small liquidity gain due to a lower average prepayment requirement; based on the assumption of a 5 percentage points lower prepayment, on average consumers would need to prepay around 70 euros less per package compared to the situation in 2022. This is a marginal impact using an opportunity cost approach, which is why it has not been further quantified.

On the cost side, the operational costs are one-off and are expected to be negligible. Using sector specific wages and the assumption of a very pessimistic estimate of one person hour increase in operation costs in line with stakeholder feedback, the average package price would increase by 4 euro cents (EUR 0.04). On the basis of stakeholder feedback, DG JUST assumed operational costs of organisers to increase by 3%, 5% and 10% respectively under measure 1.1.1, 1.1.2 and 1.1.3.

From industry data, DG JUST has estimated a rudimentary cost structure of 80% wages, 20% capital cost and a 10% operational margin. Assuming full pass-through to consumers (assuming a fully competitive market for package travel), this translates into increases of average prices of packages by EUR 4, EUR 7, and EUR 15, or 0.3%, 0.5% and 1% respectively of average package prices (based on 2023 estimates). These are high-end estimates, i.e. it is very likely that they overestimate the impact. In addition, it implicitly assumes that the current market is fully efficient. If at least some inefficiencies prevail in the current market setting, the price increases will be smaller and could be zero or even negative depending on increase in competition and the importance of market imperfections.

## 4. ANALYSIS OF IMPACTS AND COMPARISON OF OPTIONS

We assessed individual measures in terms of their expected costs and benefits. As the available evidence did not allow to determine the quantitative impact of all the measures compared to the baseline, certain measures were subject to a qualitative analysis.

The costs and benefits for all stakeholder groups (i.e., travellers, businesses and public authorities) were aggregated to represent the total impact of each measure and subsequently each option, distinguishing between quantified impacts (where available) and qualitative ones. The quantitative and qualitative scores were normalised, i.e., expressed as a proportion of the same base value, so as to determine a mean score.

Where appropriate, e.g., in view of diverging impacts, the costs and benefits were assessed per sub-group. This concerns only the stakeholder category of businesses, where the sub-groups concerned are organisers, service providers and – to a small extent – retailers. As 99% of organisers are SMEs, the specific impact on SMEs is already accounted for under the impact on organisers. The qualitative impacts related to efficiency were also assessed for each stakeholder (sub-)group, according to a monotonous qualitative scale from 0 to 5. The qualitative impacts for costs were assigned negative values, while those for benefits – positive ones.

The effectiveness and coherence of the measures were assessed globally (i.e., not per stakeholder sub-group). The scale used for such qualitative assessment was from -5 to +5 for effectiveness, and from -2 to +2 for coherence. The baseline was always assigned a score of zero.

Even though the PTD is a consumer protection instrument, the cautious assumption was applied that impacts on each stakeholder group (i.e., travellers, businesses and public authorities) are equally important, and thus the same weight was used for each group.

Where possible, the economic costs and benefits were quantified (with the total annual costs or benefits of an option discounted[457] over a 10-year baseline after adding to them 1/10$^{th}$ of total one-off costs of the option) and the related Net Present Value ("NPV")[458] calculated.

The benefit-cost ratio[459] and Return On Investment[460] were also calculated but for simplicity were not included in the comparison of options, as including them had no effect on the options ranking. Instead, the qualitative assessment of costs and benefits (for option measures that could not be quantified) was taken into account to compare the options under two multicriteria (MCA) methods[461] (based on their nominal value for the Condorcet outranking method[462] and based on the average of the quantified and qualitative scores after normalising these, in the weighted-sum MCA) - to ensure against sensitivity to MCA method.

The options were compared by analysing simultaneously their effectiveness (assessed qualitatively), efficiency (assessed both quantitatively and qualitatively, where quantification was not possible), and coherence (assessed qualitatively).

The comparison was done using two different MCA methods.

The first one is the Condorcet outranking method (partially compensatory) over a total of 8 sub-criteria: 3 covering effectiveness with respect to the 3 key specific objectives, 3 covering coherence and 2 covering the quantified and complementary qualitative assessment of efficiency.

The Condorcet outranking method allows to evaluate alternatives in terms of pairwise comparisons. It assigns to pairs of alternatives a degree of preference, dominance, or indifference, based on how well they satisfy the criteria and their relative importance. The result table shows for how many criteria a certain option dominates, i.e., is better than, the other options. The method used is partially compensatory, as it allows for compensation across the different dimensions (i.e., effectiveness, efficiency and coherence). However, there is no compensation between the different sub-criteria.

The second method used is the simple weighted sum (fully compensatory) method. The simple weighted sum method involves scalarizing multiple functions into a single objective, normalizing values, and subsequently multiplying each term by a user defined weight, indicative of importance. The method is deemed fully compensatory, as it weighs the positive and negative attributes of the considered alternatives and allows for positive attributes to compensate for the negative ones.

457 with a 5% discount rate; the use of a lower (1%) or higher (10%) rate as also checked and did not change the ranking of the options.

458 Net present value (NPV) is a financial metric that seeks to capture the total value of an initiative. The idea behind NPV is to project all of the future cash inflows and outflows associated with an initiative, discount all those future cash flows to the present day, and then add them together.

459 The benefit-cost ratio (BCR) is an indicator showing the relationship between the relative costs and benefits of an initiative, expressed in monetary or qualitative terms. If a project has a BCR greater than 1.0, the initiative is expected to deliver a positive net present value to the stakeholders.

460 Return on Investment (ROI) is a profitability metric used to evaluate how well an initiative performs. ROI is expressed as a percentage and is calculated by dividing an investment's net profit (or loss) by its initial cost or outlay.

461 A Multi-Criteria Analysis (MCA) can be used to identify and compare different policy options by assessing their effects, performance, impacts, and trade-offs. MCA provides a systematic approach for supporting complex decisions according to pre-determined criteria and objectives. It allows identifying a single preferred alternative, or to rank or short-list possible alternatives.

This method was applied over the 3 key IA criteria, i.e., effectiveness, efficiency and coherence. The values used were based on the average of the normalised value of each related sub-score. Equal weights were used, as weights are not needed to counter the effect of the number of sub-criteria, since the average of the normalised scores of the sub-criteria were used.

In addition, it was deemed of interest to check the options' ranking based on a mix of the two methods, i.e., the Condorcet outranking method but based on the mean normalised scores of the weighted sum method.

The preferred option – Option A – was consistently found to rank first across these three MCA methods. Interestingly, the fully compensatory weighted sum method did not provide the same ranking as the Condorcet methods regarding the 2nd best and worst options – with option B ranking higher than option C only under the weighted sum fully compensatory method. Whereas the fact that Option A performed best independently of the MCA method used further increases trust in option A.

Additional sensitivity analyses were performed to check the stability of the options' ranking when using - instead of the average quantified impact of a given measure - respectively their minimum and maximum quantified impact (using high-end cost assumptions).

The detailed results of the costs and benefits calculations, as well as of the comparison of options and their sensitivity analyses, are presented in Annex 10.

# ANNEX 5: COMPETITIVENESS CHECK

## 1. COMPETITIVENESS CHECK:

**Overview of impacts on competitiveness**

| Dimensions of Competitiveness | Impact of the initiative (++ / + / 0 / - / -- / n.a.) | References to sub-sections of the main report or annexes |
|---|---|---|
| Cost and price competitiveness | 0 | Section 6 and Annex 3.2 |
| International competitiveness | 0/+ | Section 6 and Annex 3.2 |
| Capacity to innovate | 0 | Section 6 and Annex 3.2 |
| SME competitiveness | 0/+ | Section 6 and Annexes 3.2 and 6 |

## 2. SYNTHETIC ASSESSMENT

Cost and price competitiveness

Several of the measures included in the preferred option may result in a slight cost increase for organisers. This would be the case for measure 1.1.1 (flexible limitation of prepayments) and potentially also measure 2.1 (covering vouchers and refund claims by insolvency protection in Member States where this is not yet the case). It should also be taken into account that voluntary measures, such as a crisis fund or insolvency back-up fund (1.2.1 and 2.1) may also have cost impacts if Member States decide to introduce such solutions. However, organisers have indicated that any cost increases resulting from the introduction of new measures in the PTD will be, as much as possible, passed on to travellers in the form of price increases for packages. In any event, any possible cost – and corresponding price – increases are expected to be small. On the other hand, other measures included in the preferred option, such as 1.3.1 (B2B refund right in case a service is not provided), may result in slight cost decreases, while measure 1.4.1 (possibility to use vouchers instead of direct refunds) would improve organisers' liquidity position.

It should also be taken into account that voluntary measures, such as a crisis fund or insolvency back-up fund (1.2.1 and 2.1.1) may also have cost impacts if Member States decide to introduce such solutions. However, organisers have indicated that any cost increases resulting from the introduction of new measures in the PTD will be , as much as possible, passed on to travellers in the form of price increases for packages. Overall, any impact on cost and price competitiveness will hence remain very limited.

International competitiveness

Approximately 112 000 EU package organisers, 99% of which are SMEs, would be affected by the measures included in the preferred option. Package organisers would

primarily gain from an increase liquidity from the B2B refund right measure, which they identified as a need. Based on the information available it has not been possible to quantify the overall potential impact of this measure on international competitiveness of organisers and service providers.

In principle, all service providers – both established within the EU and outside of it but targeting their services at EU consumers – would be subject to Measure 1.3.1 included in the preferred option, i.e., a B2B refund right for organisers in case the service is not performed. In practice, though, organisers based in the EU may not be able to insist on the application of EU law in a business-to-business contract with a third-country service provider[463] and to enforce a 7-day refund in relation to third country service providers.[464] However, there is already a difference at present in the scope to enforce refunds within and outside the EU and this will not change with the introduction of a B2B refund. Moreover, the right to a refund for services that are not provided corresponds broadly to general principles of contract law. Given that this difference already exists, the potential gap between the enforcement possibilities for organisers within and outside of EU will not become greater with the introduction of the preferred option. Therefore, no specific mitigation measures are considered necessary.

By contrast, the new provision would make it easier (and faster) for organisers to obtain a refund from (especially EU-based) service providers than at present, as, in view of their smaller bargaining power they are often not able to agree to mutually beneficial contract terms with service providers such as airlines. This will, in turn, put package organisers in a better position to refund travellers, and have a positive impact on the organisers' competitiveness. This may therefore put organisers in a better position vis-a-vis EU service providers and to a lesser extent vis-a-vis third country service providers.

Moreover, whilst overall competitiveness would be unchanged, the obstacles to recovering funds easily from non-EU countries, as long as not addressed (e.g. through bilateral agreements between the EU and the third country concerned), could lead organisers to choose the services of EU providers, such as airlines, over non-EU service providers for inclusion in packages that they offer. As a result, this might potentially in the longer-term lead to an improvement of the competitive position of EU service providers. In addition, it may encourage third country service providers wishing to operate within the EU to establish a representative office and/or a subsidiary in the EU. Overall, the B2B refund right contained in the preferred option is hence expected to have a positive impact on the competitiveness of package organisers and a neutral impact on EU service providers.

A competitiveness gain within the EU is expected from the measure contained in the preferred option, which limits pre-payments, unless there are justified reasons for increasing them due to prepayments to service providers or to cover organisers' costs directly related to the preparation of the package (measure 1.1.1). This measure harmonises rules among Member States, since some countries already apply it, and increases effective market competition. It is not possible, however, on the basis of available data to quantify the competitiveness gain for organisers resulting from this measure. The flexible limitation of prepayments does not have any impact on service providers. International competitiveness with the rest of the world will not change as a result of

[463] Under Article 3 of Regulation (EC) No 593/2008 of the European Parliament and the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) the fundamental principle is the freedom of the parties to choose the applicable law.

[464] The respect, or not, of the 7-day deadline for the B2B refund would not influence the legal deadline for the organiser to refund the traveller within 14 days, already enshrined in the PTD.

measure 1.1.1, because third country organisers offering packages to consumers in the EU also have to apply the revised PTD.

In general, there should be limited impacts on international competitiveness from the measures included in the preferred option. The value added of the service provided by package organisers is almost entirely generated within the EU. As a result, the potential channel by which international competitiveness could suffer is very small. In any event, the estimated impacts on costs are very small as well (both one-off and variable) and could certainly not be considered sufficiently significant on their own to redirect demand to non-EU providers.

Capacity to innovate

The proposed measures are not expected to result in substantial changes to the companies' capacity to innovate. This concerns both organisers and service providers.

SME competitiveness

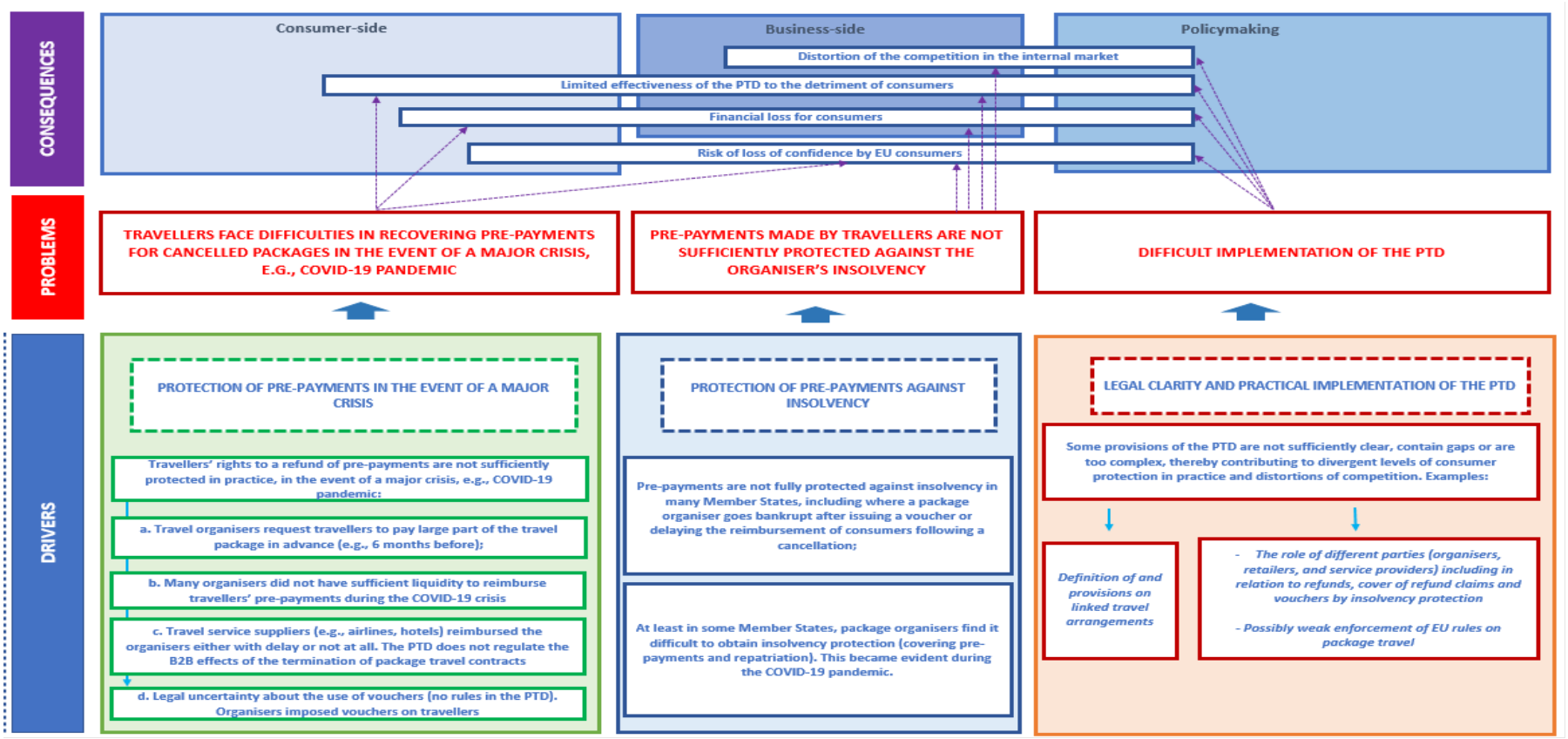
Certain (sub-)measures included in the preferred option, e.g., those related to increased insolvency protection (coverage of vouchers and refund claims) where this was not yet the case (measure 2.1) may have an impact on SME competitiveness, as described in Section 6.2 and Annex 3 (sub-section 2) and Annex 6. The introduction of a B2B refund right if the relevant service is not performed (measure 1.3.1) may lead to quicker refunds to organisers. This would enable organisers to make quicker refunds to travellers without having to use their own funds or borrow money from the capital market, thus improving the liquidity position of organisers. It might, however, slightly negatively affect the liquidity of certain service providers, which are currently not obliged to provide refunds within the proposed 7-day deadline. It should also be considered that service providers in the context of packages are often airlines and hotels. As such, the percentage of SMEs among all service providers is lower than among all organisers (99% of all organisers). Therefore, this measure would be beneficial for SMEs. Consequently, it could facilitate market entry for new SMEs and increase competition in the internal market.

# ANNEX 6: SME TEST

| Step | IA study approach taken, outputs and mitigation | Estimated outcome/results |
|---|---|---|
| Identification of affected businesses | The evaluation has identified the share of SMEs affected by PTD. | According to the evaluation, approx. 99% of travel agencies, tour operators and other reservation services in the EU identified as SMEs in 2019, i.e. around 112 000 companies. Approx. 94% of these businesses were micro enterprises. The proposed measures would have an impact on both larger companies and SMEs. In certain cases, both organisers and service providers could be impacted. None of the measures proposed are expected to significantly influence the number of SMEs operating in the market. Nevertheless, cost factors impacting on their operations and potential future growth were identified. |
| Consultation of SME stakeholders | The consultant working on the supporting study for the evaluation and impact assessment reached out to representatives of SMEs inviting them to participate in the consultations (interviews and the surveys). SMEs massively participated in the public consultation. SME representatives also responded to the targeted survey and took part in the interviews. | Out of the 323 businesses participating in the public consultation 310 identified as SMEs, out of which 249 were micro enterprises (employing fewer than 10 people). In the targeted consultation for businesses and business associations, out of the 30 responses only 6 came from businesses. Amongst those, only one company identified as a small company (employing fewer than 50 people). 216 stakeholders were identified for interviews. Out of these, 24 were businesses and 38 were business associations. Altogether 7 interviews with businesses were held, of which 4 with SME representatives. The remaining companies either did not respond to the invitation or were unavailable. |
| Measurement of the impact on SMEs | During the assessment of the various options and measures, the impacts on SMEs are identified and highlighted, whenever relevant or disproportionate. In the absence of quantifiable data, impacts were assessed qualitatively. | Information on business and SME impacts were collected from the targeted survey, interviews and the literature available. The public consultation contained limited quantifiable cost data. Most quantifiable cost impacts were collected in relation to Option 0, the baseline scenario, as these were built on past practices. Relatively limited quantifiable cost impacts were identified for the proposed measures. This was in part due the inability of stakeholders to delineate certain cost items from their overall operational costs. In the absence of cost data, impacts were assessed qualitatively. SME impacts were found to align with overall business impacts with little to no disproportionality. The assessment noted the impact that exogenous factors can have on SMEs ability to adopt or cope with the proposed regulatory changes. These factors include the financial health of the company, its consumer base and the selection of its offers, amongst others. |

| | | |
|---|---|---|
| Assessment of alternative mechanisms and mitigating measures | During the assessment of various measures, mitigating measures were considered and identified where relevant. | The assessment found that measures with higher flexibility offer more opportunities for SMEs to adapt their practices in line with the regulatory changes. Some of the measures identified increasing consumer trust as potential medium to long-term impact, which could positively affect demand and the turnover of businesses, including SMEs.<br>Longer transition periods were also identified as potential theoretical mechanisms to support the adaptation of SMEs in case of mandatory measures. However, the large majority of package organisers (99%), are SMEs. It would, therefore, not seem justified to set different transition periods depending on the size of undertakings. Furthermore, in contract and consumer protection law, different rules based on the size of the business would be very confusing and detrimental for consumers (even during transition periods). In addition, most of the measures contained in the preferred option would have a positive impact on SME organisers (e.g. vouchers or B2B refund if a service is cancelled, various clarifications) and are not expected to impact negatively their (international) competitiveness, either. It would hence be in the interest of SMEs that they are applicable as quickly as possible. On the other hand, there may be some (neutral or somewhat negative) impact from the coverage of vouchers and refund claims by insolvency protection and/or the flexible limitation of prepayments. Overall, however, the positive impacts will prevail, so that a quicker application of the new measures would be beneficial for organisers, including SMEs. |

# ANNEX 7: PROBLEM TREE



# ANNEX 8: ANNEX ON PRICE SENSITIVITY FOR TRAVEL SERVICES

## Price sensitivity

Price sensitivity is the way in which the cost of a product affects consumers' purchasing decisions. It is also known as price elasticity of demand.[465]

Travel services are known to be particularly price elastic as even minor fluctuations in price are associated with changes in demand. Depending on the channels of distribution,[466] the percentage of price-sensitive travellers may go from 87% (metasearch environment) [467], to 76% (leisure travellers booking through online travel agencies)[468] and 33%.[469]

PWC in its 2017 study for the European Commission estimated that the average price elasticity for European Tourism was -1,29 (figure used to assess the impact of tax increases, but which could also be used to assess the impact of administrative or regulatory burdens).[470]

Recent studies show that this trend is currently increasing because of high inflation and interest rates, combined with the progressive end of the so-called 'revenge tourism'. Price sensitivity remains top of mind for travellers according to Expedia '2023 Q1 Travel Insights Report'' based on industry insights and findings gathered in its Traveler Value Index 2023". This index underlines that low pricing is a leading factor when booking travel services – where full refunds or cleaning practices were dominant during COVID times.

This finding is confirmed by the survey of Jan 2023 done for the "Salon mondial du tourisme de Paris" which concludes that price is now the first criterion for 49% of French respondents when choosing a type of holidays and also item per item (transport, accommodation …) as well as by the March 2023 survey done for the European Travel Commission, 'Monitoring sentiment for domestic and intra-European travel'. Last but not least, these expressed preferences are confirmed by revealed preferences, with early bookings quickly recovering ground over last-minute bookings to secure best prices.[471] To be noted, however, that the quoted surveys do not make a distinction between package travel and booking of stand-alone services. In some cases, the described trends seem to refer to stand-alone services, with, among others, the above-mentioned survey 'Monitoring sentiment for domestic and intra-European travel' referring to consumers having booked "parts of their trip".

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[465] Harvard Business Review (2015), "A Refresher on Price Elasticity".
[466] In the behavioural economics literature, framing of choices is often found to be very influential on how individuals perceive and choose between options. Behavioural Study on Consumers' Engagement in the Circular Economy Final Report October 2018. LE Europe, VVA Europe, Ipsos, ConPolicy, Trinomics October 2018 (covering the impact of different energy label framings on consumer behaviour).
[467] Ward Nicholas, 'Rate, Position, and Brand Preference in Metasearch', 4 June 2015 (Koddi - advertising technology company).
[468] Google 'Traveller's road to decision' (2014 June).
[469] Kah, J.A.; Lee, S.-H.; Kim, J.S. (2022), "The Effects of Travelers' Price Sensitivity on Information Search Behaviors", Sustainability, # 14, 3818 (survey conducted in April 2020, i.e. when South Korea managed the first COVID wave without lockdown or severe restriction measures).
[470] PWC (2017), "The Impact of Taxes on the Competitiveness of European Tourism", for the European Commission. "[…] while the price sensitivity of tourists to a change in price is driven by a number of factors including location-specific factors and the purpose of travel of the tourists themselves, the price sensitivity of tourism in general has been increasing. With the development of price comparison sites and the availability of online ratings which provide better information about quality, consumers have become far better informed about the price and quality of competing destinations, influencing their decisions on holiday destinations."
[471] Industry data covered by non-disclosure condition.

**Price increase of a 20% prepayment limitation**

Business models (traditional packages, dynamic packages, gift boxes …) and prices vary widely across the Single Market.

In the absence of public statistics or consolidated industry data (not available because of their commercially sensitive nature), typical examples may illustrate the likely consequence of a 20% prepayment limitation on the price of travel packages.[472] It needs to be highlighted, though, that this example relates to a strict limitation of prepayments, as the one considered in Measure 1.1.2, and not the flexible one (Measure 1.1.1) included in the preferred option. As a result, its relevance for the assessment of the preferred option is only limited.

In April 2023, Expedia presented at the European Parliament the following example:[473]

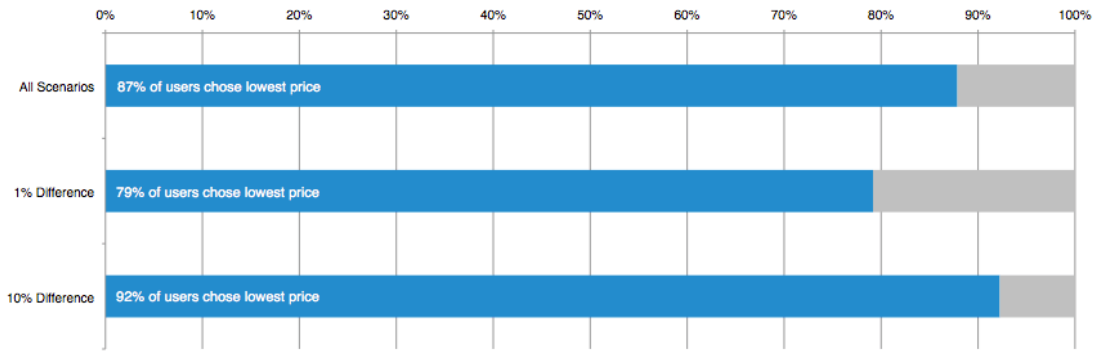
- For a dynamic package of EUR 1,000 Euro, the travel organiser would have to prepay around EUR 700 (about EUR 500 for the flight -full payment - and EUR 200 for the accommodation – down payment) or 70% of the package.
- On a yearly basis, the cost of capital[474] for a travel organiser is currently around 10%.
- As a booking is most of the time made 6 months in advance, the additional financial cost for the travel organiser would be around EUR 35 (EUR 70 / 2)
- Most travel organisers, weakened by the COVID crisis and high inflation, will have to pass on this cost to the consumer, i.e. EUR 35 EUR on top of EUR 1,000 or 3,5% price increase.

**Likely consequences of this price increase**

A pre-COVID study done by a company leading in advertising technology may shed some light on the likely consequences of a price increase of less than 3,5%. This study looked at how consumers wishing to book hotel accommodation online are responding to price, position, and advertiser-types in a controlled metasearch environment.[475]

It shows that price has the highest impact on selection and Click-Through-Rate (CTR).[476] Confronted with mock-ups presenting various prices for the same hotel on different platforms (metasearch ad auction), the "low price" was 8 times more likely to get clicked.

[472] See ECTAA infographic on prepayments (2023 April).
[473] Workshop "Payment in the tourism value chain: Where does the money go?", European Parliament, 21 March 2023, co-organised by MEP István UJHELYI and ECTAA (European Travel Agents' and Tour Operators' Associations). Speech of Jean-Philippe Monod de Froideville, Senior Vice-President Global Government and Corporate Affairs at Expedia Group.
[474] The cost of borrowing money from creditors or raising it from investors (equity) to finance its operations.
[475] Ward Nicholas, 'Rate, Position, and Brand Preference in Metasearch', 4 June 2015 (Koddi - advertising technology company).
[476] CTR = number of clicks an Ad receives divided by the number of times the Ad is shown (also called impressions).




These results were published in 2015, but it is very likely that this behaviour is even stronger today for reasons above-mentioned reasons (disposable income for travel being under pressure because of energy prices …).

In conclusion, increasing the price of travel package is likely to have a major impact on travel agencies because:

- Price-sensitive consumers represent a very large segment of the travel market.
- They tend to compare prices via online tools.
- When confronted with a very small difference in prices, an overwhelming majority goes for the cheapest option.
- When looking for hotel accommodation, they overwhelmingly tend to opt for direct booking with the hotel, depriving themselves of the Package Travel Directive protection, because of a strong bias in favour of suppliers.[477]
- The selection rate between suppliers and Online Travel Agencies evens out only when the latter are 10% cheaper than suppliers.

[477] Some surveyed consumers did so because they were more familiar with hotel brands than OTAs brands (trust factor). Many opted for direct bookings with hotels in the hope of a better customer service (better room location, more likely upgrades, …).

# ANNEX 9: IMPACTS ON CONSUMER RIGHTS, FUNDAMENTAL RIGHTS AND RELATED SUSTAINABLE DEVELOPMENT GOALS

**Key Consumer impacts questions:**

(1) Would the policy option affect consumers' ability to benefit from the four fundamental freedoms of the internal market? Attention should be paid to ensuring equal access to retail goods and services, the ability to move freely, access to various services at distance and the possibility to purchase cross-border products. Particular attention should be paid to any possible discrimination or other barriers based on nationality or place of residence (non-discrimination principle).

No, on the contrary the PTD revision is expected to contribute to a more even-playing field across the EU, which is likely to boost cross-border services and competition, and thus to accessing cross-border services in the PT field, without any discrimination based on nationality or place of residence.

(2) Would the policy option affect the prices, quality, availability or choice of consumer goods and services?

Increasing consumer protection through a more even-playing field across the EU is likely to boost cross-border services and competition, which is likely to lead to lower consumer prices, more choice of goods and services and possibly also better quality. This must however be done without any substantial costs increase for PT operators and service providers to avoid that such increases be passed onto consumers or that competition be reduced by market consolidation towards the bigger players, in a market which includes a lot of SMEs.

(3) Would the policy option affect consumer information, knowledge, trust or protection?

Yes, simplifying the PTD should help reduce asymmetric access to information or excessive costs of accessing information, which may remedy a market failure, allow consumers to make better-informed decisions, reduce the scope for unfair practices by traders and generally increase consumer trust and protection. Similarly, knowledge of consumer rights, awareness of and trust in redress mechanisms are key to ensuring that consumers fully benefit from the legal protections available.

(4) Would the policy option affect the safety of consumer goods and services?

No

(5) Would the policy option contribute to more sustainable consumption patterns?

No.

**Key Fundamental Rights impacts questions:**

**A - Does the option impact on any of the fundamental rights endorsed by the EU Charter of Fundamental Rights:**

1 – Dignity (right to life, personal integrity, prohibition of torture, slavery, forced labour, the death penalty)

No

2 – Freedoms (liberty, privacy, protection of personal data, marriage, thought, conscience, religion, expression, assembly, arts and sciences, education, conduct business, work, property and asylum)

o Does the option affect any of the individual's freedoms?

No

o Does the option involve the processing of personal data and are the individual's right to access, rectification and objection guaranteed?

No

o Does the option affect the freedom to conduct a business or impose additional requirements increasing the transaction costs for the economic operators concerned?

The proposed measures may increase transaction costs for some of the economic operators concerned, but will also decrease some of these costs, thanks to simplification and improved legal certainty which the PTD revisions would entail. These impacts are specified in detail under the competitiveness and SME test annex. The further harmonisation entailed across Member states is expected to lead to a more "even playing field" and thus facilitate the development of cross-border trade/services within the EU in the field of package travel.

o Are property rights affected (land, movable property, tangible/intangible assets)? Is acquisition, sale or use of property rights limited?

No

3 – Equality (equality before the law, non-discrimination on basis of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, cultural, religious and linguistic diversity, the rights of children and the elderly, integration of persons with disabilities).

o Does the option safeguard the principle of equality before the law and would it affect directly or indirectly the principle of non-discrimination, equal treatment, gender equality and equal opportunities for all?

The PTD revision safeguards the principle of equality before the law. Positive impacts from a better functioning internal market in the field of Package Travel are likely to enable more EU citizens to benefit from it under clearer conditions and with higher guarantees of getting reimbursed for prepayments made (or being provided with equivalent vouchers) also in case of bankruptcy of the operators or service providers involved.

o Does the option have (directly or indirectly) a different impact on women and men?

No.

o Does the preferred option ensure respect for the rights of people with disabilities in conformity with the UN Convention on the rights of persons with disabilities?

The revised PTD does not impact negatively the rights of people with disabilities. The simplifications and improved information to travellers proposed are also expected to impact them positively.

o Does the option affect the rights of the child (or group) and respect of the UN Convention on the rights of the child?

No

4 – Solidarity (right to fair working conditions, protection against unjustified dismissal, and access to health care, social and housing assistance)
The preferred option does not entail any negative impact on these issues.

5 – Citizens' Rights (to vote in European Parliament and local elections, to move freely within the EU, to good administration, to access documents and to petition the European Parliament)

The preferred option is expected to facilitate free movement of citizens both within, across and outside the EU, through simpler and clearer legislation related to package travel services and a reinforcement of travellers' rights related to pre-payments in case of bankruptcy or in some exceptional crisis periods.

6 – Justice (the right to an effective remedy, a fair trial, to the presumption of innocence, the principle of legality, non-retrospectivity and double jeopardy)

The simplification and higher legal certainty entailed in the measures are expected to favour effective remedies, the legality principle and swifter and lighter proceedings where needed.

o Does the option affect the individual's access to justice?

Yes, but it would only affect them positively - not just for individuals (see above) but also for groups resorting to PT services.

**B - Are the rights in question absolute rights, which may not be subject to limitations?**

No (i.e. the preferred option does not affect negatively any absolute right or subject it to limitations).

**C - Do the options have opposing impacts on different fundamental rights?**

The combination of policy measures proposed seeks to strike a balance between consumer rights and the rights to conduct businesses in the field of package travel, after having assessed the costs and benefits entailed in the various measures (and their combination).

**Impacts on Sustainable Development Goals (SDGs):**

By facilitating better information provision by organisers and better protection of travellers' rights, the preferred option will result in more equal position of all travellers in the EU. It will hence contribute to SDG no. 10 – reduced inequalities.

In addition, the clarifications of several provisions in the PTD will reduce inequalities between travellers form different Member States and likely decrease the number of travellers needing recourse to dispute resolution or legal procedures. The proposed measures will hence contribute to promoting non-discriminatory laws and policies and ensuring equal justice, addressed by SDG no. 16 Peace, justice and strong institutions.

Finally, the measures will contribute to promoting growth of SMEs – as most package organisers belong to this category – thereby contributing to SDG no. 8 - Promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all.

# ANNEX 10: RESULTS OF BENEFITS AND COSTS ANALYSIS, SCORING OF OPTIONS AND THE SENSITIVITY ANALYSIS

## 1. CALCULATIONS, SCORING AND SENSITIVITY ANALYSIS

The calculations of costs and benefits, the detailed scoring of options on effectiveness, efficiency and coherence, as well as the sensitivity analysis, are included on the following pages.

# Input quantification:

| 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | | Data sources |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 71,915 € | 78,396 € | 85,461 € | 93,162 € | 101,557 € | 110,709 € | 27,627 € | 35,879 € | 76,673 € | 110,709 € | million euro in current prices | 2022, 2023 based on firm level data (ORBIS) and European Commission 2023 Spring Economic Forecast |
| | | | 2017 | | 2019 | 2020 | 2021 | 2022 | 2023 | | |
| 1,202 € | 1,202 € | 1,202 € | 1,202 € | 1,220 € | 1,239 € | 1,239 € | 1,274 € | 1,383 € | 1,475 € | euro in current prices | Eurostat for 2014, 2017, 2020, 2021; interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 based on firm level data (ORBIS) and European Commission 2023 Spring Economic Forecast |
| | | | 2017 | | 2019 | 2020 | 2021 | 2022 | 2023 | | |
| 59,820,493 | 65,211,735 | 71,088,212 | 77,494,219 | 83,216,925 | 89,382,180 | 22,304,975 | 28,152,766 | 55,429,887 | 75,079,086 | count | Eurostat for 2014, 2017, 2020, 2021; interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 based on firm level data (ORBIS) and European Commission 2023 Spring Economic Forecast |
| | | | | | 2019 | 2020 | 2021 | | | | |
| | | | | | 1146 | 277 | 374 | | | million flights | Eurostat |
| | | | | | | 50 | | | | million flights | ECA 2021 report |
| | | | | | | 18.1% | -19.0% | Impact on industry for the whole year of 2020 is consistent with the "trend" of the three months c | | | calculated |
| | | | | | | -75.9% | | | | | |
| | | | | | | -75.0% | | | | | |
| | | | March-May 2020 | | | | | | | | |
| | | | 4,029,660 | | This is more the consumer perspective as cancellations concentrated in those three months. | | | | | | calculated |
| | | | 4,991,147,565 € | | | | | | | | calculated |
| 10% | | | 30% | | | | | | | | ICF study: assumption of final financial loss during normal times |
| 499,114,756 € | | | 1,497,344,269 € | | | | | | | | calculated |
| 500 | | | 1500 | | million | during crisis months | Again, consumer perspective with a focus on cancellation. | | | | |
| | | | | | | | | | | | ICF study |
| 112,000 | | | businesses (ICF data) | | | | | | | | |

**1.** Ok, if we clearly state that those cancelled packages and the loss ratio are for the period March-May 2020 and not for the entire 2020
**3.** In normal times, in 2017, using an estimate between 10-30%, consumer losses could range from 540 million to 1.6 billion EUR.

The contractor estimated cumulative yearly losses of travellers between EUR 126 million and EUR 1.6 billion

# Quantification Measure 1.1

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Benefits | | | | | | Costs | | | | | |
| | Reduction of consumer detriment lower prepayment | | | | | | | | | | | |
| *input* | Total expenditure for package trips EU-27 in 2022 | 64,520,465,139 € | | | | *input* | | | | | | |
| *input* | Average prepayment rate (baseline) | 33% | 50% | | | *input* | | | | | | |
| *output* | Total prepayment by travellers in 2022 | 21,291,753,496 € | 32,260,232,570 € | | | *input* | | | | | | |
| *output* | Average prepayment per package | 456.47 € | 691.62 € | | | *output* | | | | | | |
| *input* | Average future prepayment rate | 20% | | | | | | | *10% margin (80% wages, 20% capital)* | | | |
| *output* | Average future prepayment per package | 276.65 € | | | | | Price increase due to lower prepayments | | 11070.89177 | | | |
| *output* | Total prepayment based on future rate for 2022 | 12,904,093,028 € | | | | | 3% operational cost increase for operators for M1.1.1 | 4.4 | 332,126,753 € | | 3% | **2023 estimates** |
| *output* | Reduction in money spent for prepayment | 8,387,660,468 € | 19,356,139,542 € | | | | 5% operational cost increase for operators for M1.1.2 | 7.4 | 553,544,588 € | | 5% | **2023 estimates** |
| *output* | Liquidity gain per travel package (consumer) | 151 € | 349 € | | | | 10% operational cost increase for operators for M1.1.3 | 14.7 | 1,107,089,177 € | | 10% | **2023 estimates** |
| | | | | | | | Cost fully passed over to consumers (one-off adjustment cost for consumers) | | 4 € | estimated maximum price increase per package | | **2023 estimates** |
| | | | | | | | | | 0.30% | estimated increase in average price | | **2023 estimates** |
| | New average prepayment rate | 28% | 45% | | | | | | | | | |
| | | 18,065,730,239 € | 29,034,209,313 € | | | | | | | | | |
| | | 387.31 € | 622.46 € | | | | | | | | | |
| | Around 70 euros of "benefit" for the consumer (reduction in average prepayment requ | 69.16 € | 69.16 € | | | | | | | | | |

## Quantification Measure 1.2

| | | | | | | |
|---|---|---|---|---|---|---|
| | Costs | | | | | |
| | Cost of voluntary crisis fund = take-up rate EU27 * number of packages * cost per package | | | | | |
| M1.2.1 | minimal costs because of low take-up, cost-neutral over time | | | | | |
| | | | | | | |
| M1.2.2 | Cost per package PL | | | 5 | EUR | |
| | PPP PL 2022 | | | 86% | EU average | |
| | Cost per package EU average | | | 5.81 | EUR | |
| | Extrapolation cost of crisis fund EU27 (2022 data) | | | 322,266,786 | EUR | |
| | | | | | | |
| | | | | | | |

# Quantification Measure 2.1, 2.2

| | | | | |
|---|---|---|---|---|
| Costs | **DK case study** | | | |
| 1. Cost of insolvency protection (back up fund) | Total cost of fund per year | | EUR/DKK | |
| Insolvency sector / firm level | 5000000 | Danish Krona | 7.45 | 21 August 2023 |
| 2. Coverage of vouchers and refund claims (as is the case in DK) | 671,141 € | euro | | |
| | | **2020 (crisis)** | | |
| | total expenditure DK 2020 | 1,152,910,584 € | Eurostat | |
| | Average DK 2020 | 645 € | Eurostat | |
| | implied number of arrangements | 1,788,817 | calculated value | |
| | Cost of back up fund per arrangement in 2020 | 0.375 € | The operational cost of the Danish fund in 2020 amounted to 38 euro cents | |
| | | **0.058%** | **The implied price of insurance (operational) cost is 0,06% of the average package price during crisis times** | |
| | Estimate of the cost of risk sharing during **normal** times | | | |
| | | | | |
| | Estimated expenditure per trip | 1474.564 | **2023 values (normal times)** | |
| | Likelihood of cancellation (all risks outside major crisis) | 4.4% | ICF study | |
| | Final financial loss scenarios | | ICF study | |
| | 10% | 0.44% | calculated value | |
| | 30% | 1.32% | calculated value | |
| | VaR at 10% | 6.5 | calculated value in 2023 euros | |
| | VaR at 30% | 19.5 | calculated value in 2023 euros | |
| | | | | |
| | **Implied price of insurance based on DK operational cost example during normal times** | | | |
| | 10% scenario | 5.78% | calculated value | |
| | 30% scenario | 1.93% | calculated value | |

# Quantification Measure 3.3

| | Benefits | | | | Source |
|---|---|---|---|---|---|
| | Reduction of consumer detriment clarification role of different parties | | | | |
| *input* | Time loss when travellers did not know who to contact for a refund | 1 | 3 | days | |
| *input* | **Number of cancelled packages during March-May 2020 (COVID-19)** | **4,029,660** | | | page 106 in evaluation document sent to RSB ("issues reported by consumers on refund rights due to unavoidable circumstances under Article 12) |
| *input* | %travellers who did not know who to contact for a refund during COVID-19 | 33.00% | | could be 50% or even two thirds | |
| *output* | Total number of packages for which it was not clear know who to contact for a refund | 1,329,788 | | | |
| *output* | Total time loss COVID-19 (total consumer detriment during crisis) | 1,329,788 | 3,989,364 | days | assumption |
| | Reduction of consumer detriment due to measure 3.3.1 | 50% | | | |
| | **Reduction in time loss during crisis 3.3.1** | **664,894** | **1,994,682** | **days** | assumption |
| | Reduction of consumer detriment due to measure 3.3.2 | 75% | | | |
| | **Reduction in time loss during crisis 3.3.2** | **997,341** | **2,992,023** | **days** | |
| | | | | | |
| *Monetisation* | Time effectively spent on determining who to contact | 1 | 3 | hours - assumption of 1h spent / day lost | |
| | Average hourly rate EU-27 | 29 € | | using ICF data | |
| | **Total monetised time loss COVID-19 (total consumer detriment March-May 2020)** | **38,563,848 €** | **115,691,544 €** | | |
| | Reduction in consumer detriment due to measure 3.3.1 | 19,281,924 € | 57,845,772 € | using above assumption | |
| | Reduction in consumer detriment due to measure 3.3.2 | 28,922,886 € | 86,768,658 € | | |

## Costs for Member States – overview

| Cost items | Type of costs | Total costs of all average annual costs of all measures included within the PO (average costs for reported for cost savings i.e. average of the average yearly cost for each measure, across all measures) Average annual cost savings presented (not totals) | Total costs of all average annual costs of all measures included within the PO (average costs for reported for cost savings i.e. average of the average yearly cost for each measure, across all measures) Average annual cost savings presented (not totals) | Total costs of all average annual costs of all measures included within the PO (average costs for reported for cost savings i.e. average of the average yearly cost for each measure, across all measures) Average annual cost savings presented (not totals) |
|---|---|---|---|---|
| | | Option A | Option B | Option C |
| *EC* | | | | |
| Monitoring/enforcement costs | Recurring | - | - | - |
| *MS* | | | | |
| Administrative costs for transposition, alignment of procedures, guidance and training, monitoring and reporting (coloured green) | One-off | 49,677 | 49,677 | 49,677 |
| Monitoring costs | Recurring | - | - | - |
| Reporting to the EU | One-off | 5,390 | - | - |
| *Consumers* | | | | |
| Cost savings resulting from simplification | Recurring | - | - | - |
| *Industry* | | | | |
| Cost savings resulting from simplification | Recurring | - | - | - |
| *Totals* | | **55,067** | **49,677** | **49,677** |

# Costs Member States – assumptions

| EC/MS/Employers/TCN | Cost item | Comment | Type | Value [increment of baseline or new] | Source | Assumption [Y/N] | Description of assumption |
|---|---|---|---|---|---|---|---|
| MS | Transposing revised text of the PTD into National laws | | One-off cost | *18.0* | Own assumption | Y | Derived from the baseline assumption re FTE for the transposition of the PTD into national law per MS. Here we assume that transposition of amendments will take 20% of the total time required to transpose the whole PTD back in 2015. |
| EC | Monitoring/enforcement compliance | | Ongoing cost | 0 | Own assumption | Y | |
| EC | Issuing of guidelines, clarifications | | One-off cost | *0* | Own assumption | Y | |
| MS | Monitoring compliance | | Ongoing cost | 0 | Own assumption | Y | No additional compliance monitoring obligations |
| MS | Reporting to EU | | One-off cost | 0.625 | Own assumption | Y | Derived from the baseline assumption re FTE for reporting (i.e. 1 official per MS 2 to 3 days per year) Here we assume that additional one- off reporting costs, related to the notification obligation of crisis and/or insolvency back-up funds will take 25% of the costs in 2015 for Option A , 12.5% for Option B, and 0% for Option C |
| CONS | Cost savings resulting from better quality information on the EU PTD status, reducing the need for legal advice and therefore reducing legal disputes | | Ongoing cost saving | | | | |

# Costs Member States – preferred option

**Transposing revised text of the PTD into National laws - Public administration [MS]**

Type of cost: Personel cost

| | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Austria | | 1,910 | | | | | | | | | | 1,910 |
| Belgium | | 2,710 | | | | | | | | | | 2,710 |
| Bulgaria | | 376 | | | | | | | | | | 376 |
| Croatia | | 963 | | | | | | | | | | 963 |
| Cyprus | | 2,275 | | | | | | | | | | 2,275 |
| Czechia | | 822 | | | | | | | | | | 822 |
| Denmark | | 4,193 | | | | | | | | | | 4,193 |
| Estonia | | 906 | | | | | | | | | | 906 |
| Finland | | 2,973 | | | | | | | | | | 2,973 |
| France | | 2,576 | | | | | | | | | | 2,576 |
| Germany | | 2,799 | | | | | | | | | | 2,799 |
| Greece | | 910 | | | | | | | | | | 910 |
| Hungary | | 657 | | | | | | | | | | 657 |
| Ireland | | 4,396 | | | | | | | | | | 4,396 |
| Italy | | 2,898 | | | | | | | | | | 2,898 |
| Latvia | | 650 | | | | | | | | | | 650 |
| Lithuania | | 675 | | | | | | | | | | 675 |
| Luxembourg | | 2,295 | | | | | | | | | | 2,295 |
| Malta | | 1,722 | | | | | | | | | | 1,722 |
| Netherlands | | 3,186 | | | | | | | | | | 3,186 |
| Poland | | 1,041 | | | | | | | | | | 1,041 |
| Portugal | | 842 | | | | | | | | | | 842 |
| Romania | | 467 | | | | | | | | | | 467 |
| Slovakia | | 826 | | | | | | | | | | 826 |
| Slovenia | | 1,510 | | | | | | | | | | 1,510 |
| Spain | | 2,067 | | | | | | | | | | 2,067 |
| Sweden | | 3,032 | | | | | | | | | | 3,032 |
| EU27 | | 49,677 | | | | | | | | | | 49,677 |

**Reporting to the EU - Public administration [MS]**

**Type of cost: Personel cost**

| | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Austria | | 66 | 66 | 66 | 66 | 66 | 66 | 66 | 66 | 66 | 66 | 663 |
| Belgium | | 94 | 94 | 94 | 94 | 94 | 94 | 94 | 94 | 94 | 94 | 941 |
| Bulgaria | | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 13 | 131 |
| Croatia | | 33 | 33 | 33 | 33 | 33 | 33 | 33 | 33 | 33 | 33 | 334 |
| Cyprus | | 79 | 79 | 79 | 79 | 79 | 79 | 79 | 79 | 79 | 79 | 790 |
| Czechia | | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 285 |
| Denmark | | 146 | 146 | 146 | 146 | 146 | 146 | 146 | 146 | 146 | 146 | 1,456 |
| Estonia | | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 31 | 315 |
| Finland | | 103 | 103 | 103 | 103 | 103 | 103 | 103 | 103 | 103 | 103 | 1,032 |
| France | | 89 | 89 | 89 | 89 | 89 | 89 | 89 | 89 | 89 | 89 | 895 |
| Germany | | 97 | 97 | 97 | 97 | 97 | 97 | 97 | 97 | 97 | 97 | 972 |
| Greece | | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 316 |
| Hungary | | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 228 |
| Ireland | | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 153 | 1,527 |
| Italy | | 101 | 101 | 101 | 101 | 101 | 101 | 101 | 101 | 101 | 101 | 1,006 |
| Latvia | | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 226 |
| Lithuania | | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 23 | 234 |
| Luxembourg | | 80 | 80 | 80 | 80 | 80 | 80 | 80 | 80 | 80 | 80 | 797 |
| Malta | | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 598 |
| Netherlands | | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 111 | 1,106 |
| Poland | | 36 | 36 | 36 | 36 | 36 | 36 | 36 | 36 | 36 | 36 | 362 |
| Portugal | | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 292 |
| Romania | | 16 | 16 | 16 | 16 | 16 | 16 | 16 | 16 | 16 | 16 | 162 |
| Slovakia | | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 29 | 287 |
| Slovenia | | 52 | 52 | 52 | 52 | 52 | 52 | 52 | 52 | 52 | 52 | 524 |
| Spain | | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 72 | 718 |
| Sweden | | 105 | 105 | 105 | 105 | 105 | 105 | 105 | 105 | 105 | 105 | 1,053 |
| EU27 | | 1,725 | 1,725 | 1,725 | 1,725 | 1,725 | 1,725 | 1,725 | 1,725 | 1,725 | 1,725 | 17,249 |

| Benefits and costs in EUR million | One off | Recurring | Minimum Values | Maximum values | Methodology | Option benefits A | | |
|---|---|---|---|---|---|---|---|---|
| **Benefits** | | | | | **Qualitative assessment scale: 0-5** | | | |
| Measure 1.1.1 Flexible limitation of prepayments - benefit to consumers - reduction of consumer detriment in view of lower prepayment (liquidity gain) | | **168.7** | **168.7** | **168.7** | Reduction of 5 percentage points of the average prepayments for packages on 4.4% of packages affected (in normal times) by financial loss. | M1.1.1 | | |
| Measure 1.2.1 Possibility to set up a crisis fund at national level | | | | | Qualitative assessment: 1. With a 100% uptake, the costs would be EUR 322.3 million, but uptake is expected to be low and hence costs minimal. Operating costs in times of crisis: EUR 700k/year. Cost-neutral in the long-term. | 1 | | |
| Measure 1.3.1 Business-to-business refund right - benefit to customers - reduction of consumer detriment in view of timelier refunds | | | | | Qualitative assessment: 2 | 2 | | |
| Measure 1.3.1 Business-to-business refund right - benefit to business - increased liquidity for organisers | | | | | Qualitative assessment: 3 | 3 | | |
| Measure 1.4.1 Voluntary vouchers - clarification benefit for consumers | | | | | Qualitative assessment: 1. | 1 | | |
| Measure 1.4.1 Voluntary vouchers - positive impact on liquidity organisers | | | | | Qualitative assessment: 3. The size of the positive impact on organisers would depend on the acceptance rate of vouchers by travellers; 81% of consumer organisations would have preferred a refund. | 3 | | |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - benefits for consumers | | | | | Qualitative assessment: 3. Coverage vouchers and refund claims and potential back-up fund improves consumer protection. | 3 | | |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - benefits for organisers | | | | | Qualitative assessment: 0. Coverage vouchers will increase acceptance rate and improve iquidity of organisers (liquidity gains for organisers through higher acceptance rate taken into account under 1.4). | 0 | | |
| Measure 3.1.1 LTAs (OIOO) - benefit for businesses | | **181.4** | **181.4** | **181.4** | Significant simplification for organisers and fairer competition | M3.1.1 | | |
| Measure 3.1.1 LTAs - benefits for consumers | | | | | Qualitative assessment: 4. Clarification benefits and less circumvention of rules, higher consumer protection. | 4 | | |
| Measure 3.1.1 LTAs - benefits for authorities | | | | | Qualitative assessment: 3. easier enforecement for MS authorities. | 3 | | |
| Measure 3.2.1 Specifications on cancellations - consumers | | | | | Qualitative assessment: 1. Some clarification benefits. | 1 | | |
| Measure 3.2.1 Specifications on cancellations - MS | | | | | Qualitative assessment: 1. Some clarification benefits & easier enforcement. | 1 | | |
| Measure 3.2.1 Specifications on cancellations - organisers | | | | | Qualitative assessment: 1. Some clarification benefits. | 1 | | |
| Measure 3.3.1 Clarification on the role of different parties - benefit to organisers | | | | | Qualitative assessment: 0. Increased ease of doing business. | 0 | | |
| Measure 3.3.1 Clarification on the role of different parties - benefit to consumers - reduction in consumer detriment | | **38.6** | **19.3** | **57.8** | Expected reduction of consumer detriment between EUR 19.3 million and EUR 57.8 million (on average EUR 38.6 million) | M3.3.1 | | |
| **Total Benefit** | **-** | **388.7** | **369.4** | **408.0** | - | 1.77 | | |
| | | | | | | | | |
| **Costs** | | | | | | **Option costs A** | | |
| Measure 1.1.1 Flexible limitation of prepayments - lower prepayments (cost pass through from organisers to travellers - increased prices ) | | **332.1** | **332.1** | - | High-level estimate of the cost increase for organisers: 3%. This will be fully passed through to consumers, resulting in a price increase of EUR 15 per package (approx 1% of the package price). | M1.1.1 | | |
| Measure 1.1.1 Flexible limitation of prepayments - lower prepayments - cost pass through - increased prices - impact on number of packages sold through price elasiticty (sales organisers) | | | | | Qualitative assessment: 1 | 1 | | |
| Measure 1.2.1 Possibility to set up a crisis fund at national level | | - | - | - | Qualitative assessment: 1. With a 100% uptake, the costs would be EUR 322.0 million, but uptake is expected to be low and hence costs minimal. Operating costs in times of crisis: EUR 700k/year. Full pass-through to consumers. Cost-neutral in the long-term | 1 | | |
| Measure 1.3.1 Business-to-business refund right - impact on service providers | | - | - | - | Qualitative assessment: 1. Might slightly negatively affect the liquidity of certain service providers; not expected that this would lead service providers to include a risk premium which would raise the costs of packages. | 1 | | |
| Measure 1.4.1 Voluntary vouchers - costs for organisers | | - | - | - | Qualitative assessment: 0. Costs, if any, expected to be minimal. | 0 | | |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - organisers | | | | | Qualitative assessment: 0. Some MSs have back-up funds; obligation to create insolvency protection system already exists, any additional measures cannot be seen as an additional burden; 30% of businesses - costs of covering vouchers and refunds would be reasonable; 40% not; If there are any costs, likely 100% pass-through to travellers. | 0 | | |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - costs for consumers | | | | | Qualitative assessment: 1. If there are any cost increases, likley 100% pass-through from organisers. | 1 | | |
| Measure 3.1.1 LTAs - cost to business - familiarisation (OIOO) | **6.5** | | | | one-off familiarisation cost for businesses | M3.1.1 | | |
| Measure 3.2.1 Specifications on cancellations | | - | - | - | Qualitative assessment: 0. Negligeabe cost increases for organisers, if at all. | 0 | | |
| Measure 3.3.1 Clarification on the role of different parties - businesses | | - | - | - | Qualitative assessment: 0. Negligeable one-off administrative impact. | 0 | | |
| For all measures taken together - cost to administrations - transposition + information | **0.1** | | | | | **Admin and transposition** | | |
| **Total Cost** | **6.6** | **332.1** | **332.1** | - | | 1 | | |
| **Net Impact (Total Benefit - Total Cost)** | **- 6.6** | **56.6** | **37.3** | **408.0** | | | | |
| **Benefit Cost Ratio (Total Benefit / Total Cost)** | | **1.2** | **1.1** | **#DIV/0!** | | *Net B-N* | 1.27 | |

Benefits from 2026 (discounted from 2025)

| | | | | | |
|---|---|---|---|---|---|
| **baseline duration** | **10 years** | | **10** | **10** | |
| discount rate | low | medium | medium | medium | high |
| **Option A** | 1% | 5% | 5% | 5% | 10% |
| 1 | 384.8 | 370.2 | 351.8 | 388.5 | 353.4 |
| 2 | 381.0 | 352.5 | 335.1 | 370.0 | 321.2 |
| 3 | 377.3 | 335.8 | 319.1 | 352.4 | 292.0 |
| 4 | 373.5 | 319.8 | 303.9 | 335.6 | 265.5 |
| 5 | 369.8 | 304.5 | 289.4 | 319.7 | 241.3 |
| 6 | 366.2 | 290.0 | 275.7 | 304.4 | 219.4 |
| 7 | 362.5 | 276.2 | 262.5 | 289.9 | 199.5 |
| 8 | 358.9 | 263.1 | 250.0 | 276.1 | 181.3 |
| 9 | 355.4 | 250.5 | 238.1 | 263.0 | 164.8 |
| 10 | 351.9 | 238.6 | 226.8 | 250.5 | 149.9 |
| IA baseline sum | **3,681.4** | **3,001.3** | **2,852.4** | **3,150.2** | **2,388.3** |

| | | | | | |
|---|---|---|---|---|---|
| Costs from 2026 (discounted from 2025) | cost= | 332.8 | 332.8 | 0.7 | (yearly costs plus 1/10 of fixed costs) |
| **baseline duration** | **10 years** | **years** | **years** | | |
| discount rate | low | medium | medium | medium | high |
| **Option A** | 1% | 5% | 5% | 5% | 10% |
| 1 | 329.5 | 316.9 | 316.9 | 0.6 | 302.5 |
| 2 | 326.2 | 301.8 | 301.8 | 302.2 | 275.0 |
| 3 | 323.0 | 287.5 | 287.5 | 287.8 | 250.0 |
| 4 | 319.8 | 273.8 | 273.8 | 274.1 | 227.3 |
| 5 | 316.6 | 260.7 | 260.7 | 261.0 | 206.6 |
| 6 | 313.5 | 248.3 | 248.3 | 248.6 | 187.8 |
| 7 | 310.4 | 236.5 | 236.5 | 236.7 | 170.8 |
| 8 | 307.3 | 225.2 | 225.2 | 225.5 | 155.2 |
| 9 | 304.3 | 214.5 | 214.5 | 214.7 | 141.1 |
| 10 | 301.3 | 204.3 | 204.3 | 204.5 | 128.3 |
| IA baseline sum | **3,151.9** | **2,569.7** | **2,569.7** | **2,255.7** | **2,044.8** |

| | | | | | |
|---|---|---|---|---|---|
| **Net Present Value (NPV - Total discounted Benefits - Total discounted Costs)** | **529.5** | **431.7** | **282.8** | **894.5** | **343.5** |
| | high bound | medium | medium | medium | low bound |
| Benefit cost ratio (BCR) | 1.17 | 1.17 | 1.11 | 1.40 | 1.17 |
| **Return on investment** | **0.17** | **0.17** | **0.11** | **0.40** | **0.17** |

| Benefits and costs in EUR million | One off | Recurring | Minimum Values | Maximum values | Methodology | | Option quantified benefits | | |
|---|---|---|---|---|---|---|---|---|---|
| **Benefits** | | | | | | | | B | |
| Measure 1.1.2 Strict limitation of prepayments - benefit to consumers - reduction of consumer detriment in view of lower prepayment (liquidity gain) | | **610.4** | **369.1** | **851.7** | liquidity gain of EUR 8.4 billion and EUR 19.3 billion (on average: EUR 13.9 billion) on 4.4% of packages affected (in normal times) by financial loss. This leads to a decrease of consumer detriment between EUR 369.1 million and EUR 851.7 million. | | | M1.1.2 | |
| Measure 1.4.2 Mandatory vouchers in times of crisis - benefits for organisers | | | | | Qualitative assessment: 5. Liquidity gains | | | 5 | |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - benefits for consumers | | | | | Qualitative assessment: 3. Coverage vouchers and refund claims and potential back-up fund improves consumer protection. | | | 3 | |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - benefits for organisers | | | | | Qualitative assessment: 0. Coverage vouchers will increase acceptance rate and improve iquidity of organisers (liquidity gains for organisers through higher acceptance rate taken into account under 1.4). | | | 0 | |
| Measure 3.1.2 LTAs (OIOO) - businesses | | **108.9** | **108.9** | **108.9** | Some simplification for organisers and level playing field | | | M3.12 | |
| Measure 3.1.2 LTAs (OIOO) - travellers | | | | | Qualitative assessment: 2. Clarification and simplification benefits. | | | 2 | |
| Measure 3.1.2 LTAs (OIOO) - authorities | | | | | Qualitative assessment: 2. Clarification and simplification benefits. | | | 2 | |
| Measure 3.2.1 Specifications on cancellations - consumers | | | | | Qualitative assessment: 1. Some clarification benefits. | | | 1 | |
| Measure 3.2.1 Specifications on cancellations - MS | | | | | Qualitative assessment: 1. Some clarification benefits & easier enforcement. | | | 1 | |
| Measure 3.2.1 Specifications on cancellations - organisers | | | | | Qualitative assessment: 1. Some clarification benefits. | | | 1 | |
| **Total Benefit** | - | **719.2** | **477.9** | **960.5** | - | | | 1.875 | |
| | | | | | | | **Option quantified costs** | | |
| **Costs** | | | | | | | | B | |
| Measure 1.1.2 Strict limitation of prepayment - lower prepayments (cost pass through from organisers - increased prices ) | | **553.5** | **553.5** | **553.5** | High-level estimate of the cost increase for organisers: 5%. This will be fully passed through to consumers, resulting in a price increase of packages | | | M1.1.2 | |
| Measure 1.1.2 Strict limitation of prepayment - lower prepayments - cost pass through - increased package prices - impact on number of packages sold through price elasiticty (sales organisers) | | | | | Qualitative assessment: 3. In view of negative price elasiticty increased package prices may lead to a reduction of packages sold and hence negatively impact revenues of organisers. | | | 3 | |
| Measure 1.4.2 Mandatory vouchers in times of crisis - impact on organisers | | - | - | - | Qualitative assessment: 0. Costs for organisers for issuing vouchers, if any, expected to be minimal. | | | 0 | |
| Measure 1.4.2 Mandatory vouchers in times of crisis - impact on consumers | | | | | Qualitative assessment: 5. Reduction in consumer protection through no immediate refund. | | | 5 | |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - organisers | | | | | Qualitative assessment: 0. Some MSs have back-up funds; obligation to create insolvency protection system already exists, any additional measures cannot be seen as an additional burden; 30% of businesses - costs of covering vouchers and refunds would be reasonable; 40% not; If there are any costs, likely 100% pass-through to travellers. | | | 0 | |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - costs for consumers | | | | | Qualitative assessment: 1. If there are any cost increases, likley 100% pass-through from organisers. | | | 1 | |
| Measure 3.1.2 LTAs - cost to business - familiarisation | **6.5** | | | | one-off familiarisation cost for businesses | | | M3.1.2 | |
| Measure 3.2.1 Specifications on cancellations | | - | - | - | Qualitative assessment: 0. Negligeabe cost increases for organisers, if at all. | | | 0 | |
| For all measures taken together - cost to administrations - transposition + information | **0.05** | | | | | | | **Admin and transposition** | |
| **Total Cost** | **6.5** | **553.5** | **553.5** | **553.5** | | | | 1.5 | |
| **Net Impact (Total Benefit - Total Cost)** | - **6.5** | **165.7** | - **75.6** | **407.0** | | | | | |
| **Benefit Cost Ratio (Total Benefit / Total Cost)** | | **1.3** | **0.9** | **1.7** | | *Net B-N* | | 0.38 | |

| | | | | | |
|---|---|---|---|---|---|
| Benefits from 2026 (discounted from 2025) | | | | | |
| **baseline duration** | **10** | **years** | **years** | **years** | |
| discount rate | low | medium | medium | medium | high |
| **Option B** | 1% | 5% | 5% | 5% | 10% |
| 1 | 712.1 | 685.0 | 455.2 | 914.8 | 653.8 |
| 2 | 705.1 | 652.4 | 433.5 | 871.2 | 594.4 |
| 3 | 698.1 | 621.3 | 412.8 | 829.7 | 540.4 |
| 4 | 691.2 | 591.7 | 393.2 | 790.2 | 491.2 |
| 5 | 684.3 | 563.5 | 374.5 | 752.6 | 446.6 |
| 6 | 677.5 | 536.7 | 356.6 | 716.8 | 406.0 |
| 7 | 670.8 | 511.1 | 339.7 | 682.6 | 369.1 |
| 8 | 664.2 | 486.8 | 323.5 | 650.1 | 335.5 |
| 9 | 657.6 | 463.6 | 308.1 | 619.2 | 305.0 |
| 10 | 651.1 | 441.5 | 293.4 | 589.7 | 277.3 |
| IA baseline sum | **6,812.0** | **5,553.7** | **3,690.4** | **7,417.0** | **4,419.3** |
| | | | | | |
| Costs from 2026 (discounted from 2025) | cost= | 554.2 | 554.2 | 554.2 | (yearly costs plus 1/10 of fixed costs) |
| **baseline duration** | **10** | **years** | **years** | **years** | |
| discount rate | low | medium | medium | medium | high |
| **Option B** | 1% | 5% | 5% | 5% | 10% |
| 1 | 548.7 | 527.8 | 527.8 | 527.8 | 503.8 |
| 2 | 543.3 | 502.7 | 502.7 | 502.7 | 458.0 |
| 3 | 537.9 | 478.7 | 478.7 | 478.7 | 416.4 |
| 4 | 532.6 | 455.9 | 455.9 | 455.9 | 378.5 |
| 5 | 527.3 | 434.2 | 434.2 | 434.2 | 344.1 |
| 6 | 522.1 | 413.6 | 413.6 | 413.6 | 312.8 |
| 7 | 516.9 | 393.9 | 393.9 | 393.9 | 284.4 |
| 8 | 511.8 | 375.1 | 375.1 | 375.1 | 258.5 |
| 9 | 506.7 | 357.2 | 357.2 | 357.2 | 235.0 |
| 10 | 501.7 | 340.2 | 340.2 | 340.2 | 213.7 |
| IA baseline sum | **5,249.0** | **4,279.4** | **4,279.4** | **4,279.4** | **3,405.3** |
| | | | | | |
| **Net Present Value (NPV - Total discounted Benefits - Total discounted Costs)** | **1,563.0** | **1274.31** | **-589.00** | **3137.61** | **1,014.0** |
| | high bound | medium | medium | medium | low bound |
| Benefit cost ratio (BCR) | 1.30 | 1.30 | 0.86 | 1.73 | 1.30 |
| **Return on investment** | **0.30** | **0.30** | **-0.14** | **0.73** | **0.30** |

| Benefits and costs in EUR million | One off | Recurring | Minimum Values | Maximum values | Methodology | | Option quantified benefits | | |
|---|---|---|---|---|---|---|---|---|---|
| **Benefits** | | | | | | | | | C |
| Measure 1.1.3 Strict limitation of prepayments to organisers and service providers - benefit to consumers - reduction of consumer detriment in view of lower prepayment (liquidity gain) | | **610.4** | **369.1** | **851.7** | liquidity gain of EUR 8.4 billion and EUR 19.3 billion (on average: EUR 13.9 billion) on 4.4% of packages affected (in normal times) by financial loss. This leads to a decrease of consumer detriment between EUR 369.1 million and EUR 851.7 million. | | | | **M1.1.3** |
| Measure 1.2.2 Mandatory crisis fund at national level - benefit for consumers | | | | | Qualitative assessment: 5. Travellers will get their refunds without delay. | | | | **5** |
| Measure 1.3.2 Business-to-business refund right in all cases - benefit to customers - reduction of consumer detriment in view of timelier refunds | | | | | Qualitative assessment: 3 | | | | **3** |
| Measure 1.3.2 Business-to-business refund right in all cases - benefit to business - increased liquidity for organisers | | | | | Qualitative assessment: 4 | | | | **4** |
| Measure 2.2 - Mandatory insolvency back-up fund and coverage of vouchers and refund claims | | | | | Qualitative assessment: 5 | | | | **5** |
| Measure 3.1.3 LTAs (OIOO) - businesses | | **108.9** | **108.9** | **108.9** | Some simplification for organisers and level playing field | | | | **M3.1.3** |
| Measure 3.1.3 LTAs (OIOO) - travellers | | | | | Qualitative assessment: 1. Clarification and simplification benefits. | | | | **1** |
| Measure 3.1.3 LTAs (OIOO) - authorities | | | | | Qualitative assessment: 1. Clarification and simplification benefits. | | | | **1** |
| Measure 3.2.2 Specifications on cancellations + formal value travel warnings - benefit for consumers | | | | | Qualitative assessment: 5 | | | | **5** |
| Measure 3.3.2 Clarification on the role of different parties + seller responsible - benefit to consumers | | | | | Qualitative assessment: 3. Reduction in consumer detriment. | | | | **3** |
| **Total Benefit** | **-** | **719.2** | **477.9** | **960.5** | - | | | | 3.375 |
| | | | | | | | **Option quantified costs** | | |
| **Costs** | | | | | | | | | **C** |
| Measure 1.1.3 Strict limitation of prepayments to organisers and service providers - lower prepayments (cost pass through - increased prices ) | | **1,107.1** | **1,107.1** | **1,107.1** | High-level estimate of the cost increase for service providers passed to organisers: 10%. This will be fully passed through to consumers, resulting in a price increase of packages | | | | **M1.1.3** |
| Measure 1.1.3 Strict limitation of prepayment - lower prepayments - cost pass through - increased prices - impact on number of packages sold through price elasiticty (sales organisers) | | | | | Qualitative assessment: 5. In view of negative price elasiticty increased package prices may lead to a reduction of packages sold and hence negatively impact revenues of organisers. This will also affect service providers who will offer fewer services for packages, leading to a shrinking package travel market. | | | | **5** |
| Measure 1.1.3 Strict limitation of prepayment - impact on enforcement MS | | | | | Qualitative assessment: 1. Potentially somewhat increased enforcement costs, as MS authorities would start monitoring also service providers | | | | **1** |
| Measure 1.2.2 Mandatory crisis fund at national level | | **323.0** | **323.0** | **323.0** | costs would be EUR 322.3 million. Operating costs in times of crisis: EUR 700k/year. | | | | **M1.2.2** |
| Measure 1.3.2 Business-to-business refund right in all cases - impact on service providers - cost ass through to organisers and consumers - increased prices | | **1,107.1** | **1,107.1** | **1,107.1** | Expected cost increase of at least 10%, passed on to cosumers and resulting in a total price increase of EUR 1.1 billion. | | | | **M1.3.2** |
| Measure 2.2 - Mandatory insolvency back-up fund and coverage of vouchers and refund claims - impact on organisers - cost pass-through to consumers - increased prices | | **323.0** | **323.0** | **323.0** | costs would be EUR 322.3 million. Operating costs in times of crisis: EUR 700k/year. | | | | **M2.2** |
| Measure 2.2 - Mandatory insolvency back-up fund and coverage of vouchers and refund claims - impact on MS | | | | | Qualitative assessment: 1. New tasks for MS in enforcement and monitoring. | | | | **1** |
| Measure 3.1.3 LTAs - cost to business (traders) - familiarisation | **6.5** | | | | one-off familiarisation cost for businesses | | | | |
| Measure 3.2.2 Specifications on cancellations + formal value travel warnings - impact on organisers | | | | | Qualitative assessment: 2. Clarification potentially leading to higher costs for organisers. | | | | **2** |
| Measure 3.2.2 Specifications on cancellations + formal value travel warnings - impact on MS authorities | | | | | Qualitative assessment: 1. Split views among MS authorities whether the measure would have a positive impact. | | | | **1** |
| Measure 3.3.2 Clarification on the role of different parties + seller responsible - impact on retailers | | | | | Qualitative assessment: 3. Likely to affect business models in most of the Member States, where retailers are not liable for the performance of packages. Especially in markets where retailers operate with small margins this additional burden may be relevant. | | | | **3** |
| For all measures taken together - cost to administrations - transposition + information | **0.05** | | | | | | **Admin and transposition** | | |
| **Total Cost** | **6.5** | **2,860.1** | **2,860.2** | **2,860.2** | | | | | 2.166667 |
| **Net Impact (Total Benefit - Total Cost)** | **- 6.5** | **- 2,140.9** | **- 2,382.3** | **- 1,899.6** | | | | | |
| **Benefit Cost Ratio (Total Benefit / Total Cost)** | | **0.3** | **0.2** | **0.3** | | *Net B-N* | | | 1.21 |

| | | | | | |
|---|---|---|---|---|---|
| Benefits from 2026 (discounted from 2025) | | | | | |
| **baseline duration** | **10** | **years** | **years** | **years** | |
| discount rate | low | medium | medium | medium | high |
| **Option C** | 1% | 5% | 5% | 5% | 10% |
| 1 | 712.1 | 685.0 | 455.2 | 914.8 | 653.8 |
| 2 | 705.1 | 652.4 | 433.5 | 871.2 | 594.4 |
| 3 | 698.1 | 621.3 | 412.8 | 829.7 | 540.4 |
| 4 | 691.2 | 591.7 | 393.2 | 790.2 | 491.2 |
| 5 | 684.3 | 563.5 | 374.5 | 752.6 | 446.6 |
| 6 | 677.5 | 536.7 | 356.6 | 716.8 | 406.0 |
| 7 | 670.8 | 511.1 | 339.7 | 682.6 | 369.1 |
| 8 | 664.2 | 486.8 | 323.5 | 650.1 | 335.5 |
| 9 | 657.6 | 463.6 | 308.1 | 619.2 | 305.0 |
| 10 | 651.1 | 441.5 | 293.4 | 589.7 | 277.3 |
| IA baseline sum | **6,812.0** | **5,553.7** | **3,690.4** | **7,417.0** | **4,419.3** |
| | | | | | |
| Costs from 2026 (discounted from 2025) | cost= | 2,860.8 | 2,860.8 | 2,860.8 | (yearly costs plus 1/10 of fixed costs) |
| **baseline duration** | **10** | **years** | **years** | **years** | |
| discount rate | low | medium | medium | medium | high |
| **Option C** | 1% | 5% | 5% | 5% | 10% |
| 1 | 2,832.5 | 2,724.6 | 2,724.6 | 2,724.6 | 2,600.7 |
| 2 | 2,804.4 | 2,594.8 | 2,594.9 | 2,594.9 | 2,364.3 |
| 3 | 2,776.7 | 2,471.3 | 2,471.3 | 2,471.3 | 2,149.4 |
| 4 | 2,749.2 | 2,353.6 | 2,353.6 | 2,353.6 | 1,954.0 |
| 5 | 2,722.0 | 2,241.5 | 2,241.5 | 2,241.5 | 1,776.3 |
| 6 | 2,695.0 | 2,134.8 | 2,134.8 | 2,134.8 | 1,614.8 |
| 7 | 2,668.3 | 2,033.1 | 2,033.1 | 2,033.1 | 1,468.0 |
| 8 | 2,641.9 | 1,936.3 | 1,936.3 | 1,936.3 | 1,334.6 |
| 9 | 2,615.7 | 1,844.1 | 1,844.1 | 1,844.1 | 1,213.3 |
| 10 | 2,589.8 | 1,756.3 | 1,756.3 | 1,756.3 | 1,103.0 |
| IA baseline sum | **27,095.5** | **22,090.3** | **22,090.6** | **22,090.6** | **17,578.4** |
| | | | | | |
| **Net Present Value (NPV - Total discounted Benefits - Total discounted Costs)** | **- 20,283.5** | **- 16,536.6** | **- 18,400.2** | **- 14,673.6** | **- 13,159.0** |
| | high bound | medium | medium | medium | low bound |
| Benefit cost ratio (BCR) | 0.25 | 0.25 | 0.17 | 0.34 | 0.25 |
| **Return on investment** | **-0.75** | **-0.75** | **-0.83** | **-0.66** | **-0.75** |

## Sensitivity Analysis – Option A/preferred option

(impacts assessed are net of the baseline, so no need to include also the status quo option)

**Average values of quantified efficiency**

AUTOMATED sensitivity calculations (comparing 3 options)

| Policy Options | Effectiveness/Obj. 1 | Effectiveness/ Obj. 2 | Effectiveness/Obj. 3 | Coherence/ Obj. 1 | Coherence/Obj. 2 | Coherence/Obj. 3 | Efficiency (quantified) /Net Present Value (discount rate 5%) | Efficiency (qualitative assessment) | Average of normalised scores for each dimension | |
|---|---|---|---|---|---|---|---|---|---|---|
| A | 0.35 | 0.60 | 0.53 | 0.38 | 0.00 | 0.00 | 431.67 | 1.27 | **0.25** | BEST |
| B | 0.20 | 0.60 | 0.40 | -0.50 | 0.00 | 0.00 | 1274.31 | 0.38 | **0.10** | 2nd best |
| C | 0.75 | 1.00 | 0.60 | -0.38 | -0.50 | 0.00 | -16536.65 | 1.21 | **0.04** | worst |

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | (NPV)/effectiveness/coherence | |
|---|---|---|---|---|
| A | 0.03 | 0.25 | **0.22** | BEST |
| B | 0.08 | 0.08 | **0.10** | 2nd best |
| C | -0.98 | 0.24 | **-0.16** | worst |

(impacts assessed are net of the baseline, so no

| EFFECTIVENESS | Baseline | Option A | Option B | Option C |
|---|---|---|---|---|
| M1.1 Limitation of prepayments | 0.00 | 2.00 | 4.00 | 5.00 |
| M1.2 Rapid refund mechanism | 0.00 | 2.00 | 0.00 | 5.00 |
| M1.3 B2B refund right | 0.00 | 2.00 | 0.00 | 5.00 |
| M1.4 Vouchers | 0.00 | 1.00 | 0.00 | 0.00 |
| **score (objective 1)** | **0.00** | **1.75** | **1.00** | **3.75** |
| **normalised score (objective 1)** | **0.00** | **0.35** | **0.20** | **0.75** |
| M2.1 Insolvency protection/back-up | 0.00 | 3.00 | 3.00 | 5.00 |
| **score (objective 2)** | **0.00** | **3.00** | **3.00** | **5.00** |
| **normalised score (objective 2)** | **0.00** | **0.60** | **0.60** | **1.00** |
| M3.1 Partial Deletion LTAs | 0.00 | 5.00 | 3.00 | 1.00 |
| M3.2 Cancellation rights/travel | 0.00 | 2.00 | 2.00 | 5.00 |
| M3.3 role parties | 0.00 | 1.00 | 1.00 | 3.00 |
| **score (objective 3)** | **0.00** | **2.67** | **2.00** | **3.00** |
| **normalised score (objective 3)** | **0.00** | **0.53** | **0.40** | **0.60** |
| **AVERAGE over the 3 objectives** | **0.00** | **0.49** | **0.40** | **0.78** |

| COHERENCE | Baseline | Option A | Option B | Option C |
|---|---|---|---|---|
| M1.1 Limitation of prepayments | 0.00 | 0.00 | -2.00 | -1.00 |
| M1.2 Rapid refund mechanism | 0.00 | 0.00 | 0.00 | -1.00 |
| M1.3 B2B refund right | 0.00 | 1.00 | 0.00 | -1.00 |
| M1.4 Vouchers | 0.00 | 2.00 | -2.00 | 0.00 |
| **score (objective 1)** | **0.00** | **0.75** | **-1.00** | **-0.75** |
| **normalised score (objective 1)** | **0.00** | **0.38** | **-0.50** | **-0.38** |
| M2.1 Insolvency protection/back- | 0.00 | 0.00 | 0.00 | -1.00 |
| **score (objective 2)** | **0.00** | **0.00** | **0.00** | **-1.00** |
| **normalised score (objective 2)** | **0.00** | **0.00** | **0.00** | **-0.50** |
| M3.1 Partial Deletion LTAs | 0.00 | 0.00 | 0.00 | 0.00 |
| M3.2 Cancellation rights/travel | 0.00 | 0.00 | 0.00 | 0.00 |
| M3.3 role parties | 0.00 | 0.00 | 0.00 | 0.00 |
| **score (objective 3)** | **0.00** | **0.00** | **0.00** | **0.00** |
| **normalised score (objective 3)** | **0.00** | **0.00** | **0.00** | **0.00** |
| **AVERAGE over the 3 objectives** | **0.00** | **0.13** | **-0.17** | **-0.29** |

Condorcet outranking method (partial compensation over 8 sub-criteria)

| Y Concordance index (no | A | B | C | no. criteria for which the option dominates | (domination score - dominated score)/no | |
|---|---|---|---|---|---|---|
| **A** | | 4 | 4 | 8 | **0.21** | BEST |
| **B** | 1 | | 2 | 3 | **-0.32** | worst |
| **C** | 3 | 5 | | 8 | **0.11** | 2nd best |
| no. criteria for which option is dominated by | 4 | 9 | 6 | 19 | | |
| | | 19 | | | | |

› need to include also the status quo option)

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | Average efficiency |
|---|---|---|---|
| **A** | 0.03 | 0.25 | **0.14** |
| **B** | 0.08 | 0.08 | **0.08** |
| **C** | -0.98 | 0.24 | **-0.37** |

Weighted sum method over 3 key IA criteria (full aggregation)

| Policy Options | Effectiveness | Efficiency | Coherence | Mean MCA (equal weights) | |
|---|---|---|---|---|---|
| **A** | 0.49 | 0.14 | 0.13 | **0.25** | BEST |
| **B** | 0.40 | 0.08 | -0.17 | **0.10** | 2nd best |
| **C** | 0.78 | -0.37 | -0.29 | **0.04** | worst |

**Minimum values of quantified efficiency**

AUTOMATED sensitivity calculations (comparing 3 options)

| Policy Options | Effectiveness/Obj. 1 | Effectiveness/ Obj. 2 | Effectiveness/Obj. 3 | Coherence/ Obj. 1 | Coherence/Obj. 2 | Coherence/Obj. 3 | Efficiency (quantified)/ Net Present Value (discount rate 5%) | Efficiency (qualitative assessment) | Average of normalised scores for each dimension | |
|---|---|---|---|---|---|---|---|---|---|---|
| A | 0.35 | 0.60 | 0.53 | 0.38 | 0.00 | 0.00 | 282.78 | 1.27 | **0.25** | BEST |
| B | 0.20 | 0.60 | 0.40 | -0.50 | 0.00 | 0.00 | -589.00 | 0.38 | **0.08** | 2nd best |
| C | 0.75 | 1.00 | 0.60 | -0.38 | -0.50 | 0.00 | -18400.21 | 1.21 | **0.02** | worst |

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | Average efficiency (NPV)/effectiveness/coherence | |
|---|---|---|---|---|
| A | 0.016798961 | 0.25 | **0.21** | BEST |
| B | -0.03499062 | 0.075 | **0.07** | 2nd best |
| C | -1.093103443 | 0.241666667 | **-0.20** | worst |

(impacts assessed are net of the baseline, so no

| EFFECTIVENESS | Baseline | Option A | Option B | Option C |
|---|---|---|---|---|
| M1.1 Limitation of prepayments | 0.00 | 2.00 | 4.00 | 5.00 |
| M1.2 Rapid refund mechanism | 0.00 | 2.00 | 0.00 | 5.00 |
| M1.3 B2B refund right | 0.00 | 2.00 | 0.00 | 5.00 |
| M1.4 Vouchers | 0.00 | 1.00 | 0.00 | 0.00 |
| **score (objective 1)** | **0.00** | **1.75** | **1.00** | **3.75** |
| **normalised score (objective 1)** | **0.00** | **0.35** | **0.20** | **0.75** |
| M2.1 Insolvency protection/back-up | 0.00 | 3.00 | 3.00 | 5.00 |
| **score (objective 2)** | **0.00** | **3.00** | **3.00** | **5.00** |
| **normalised score (objective 2)** | **0.00** | **0.60** | **0.60** | **1.00** |
| M3.1 Partial Deletion LTAs | 0.00 | 5.00 | 3.00 | 1.00 |
| M3.2 Cancellation rights/travel | 0.00 | 2.00 | 2.00 | 5.00 |
| M3.3 role parties | 0.00 | 1.00 | 1.00 | 3.00 |
| **score (objective 3)** | **0.00** | **2.67** | **2.00** | **3.00** |
| **normalised score (objective 3)** | **0.00** | **0.53** | **0.40** | **0.60** |
| **AVERAGE over the 3 objectives** | **0.00** | **0.49** | **0.40** | **0.78** |

| COHERENCE | Baseline | Option A | Option B | Option C |
|---|---|---|---|---|
| M1.1 Limitation of prepayments | 0.00 | 0.00 | -2.00 | -1.00 |
| M1.2 Rapid refund mechanism | 0.00 | 0.00 | 0.00 | -1.00 |
| M1.3 B2B refund right | 0.00 | 1.00 | 0.00 | -1.00 |
| M1.4 Vouchers | 0.00 | 2.00 | -2.00 | 0.00 |
| **score (objective 1)** | **0.00** | **0.75** | **-1.00** | **-0.75** |
| **normalised score (objective 1)** | **0.00** | **0.38** | **-0.50** | **-0.38** |
| M2.1 Insolvency protection/back- | 0.00 | 0.00 | 0.00 | -1.00 |
| **score (objective 2)** | **0.00** | **0.00** | **0.00** | **-1.00** |
| **normalised score (objective 2)** | **0.00** | **0.00** | **0.00** | **-0.50** |
| M3.1 Partial Deletion LTAs | 0.00 | 0.00 | 0.00 | 0.00 |
| M3.2 Cancellation rights/travel | 0.00 | 0.00 | 0.00 | 0.00 |
| M3.3 role parties | 0.00 | 0.00 | 0.00 | 0.00 |
| **score (objective 3)** | **0.00** | **0.00** | **0.00** | **0.00** |
| **normalised score (objective 3)** | **0.00** | **0.00** | **0.00** | **0.00** |
| **AVERAGE over the 3 objectives** | **0.00** | **0.13** | **-0.17** | **-0.29** |

Condorcet outranking method (partial compensation over 8 sub-criteria)

| Y Concordance index (no. criteria where x dominates y) X | A | B | C | no. criteria for which the option dominates another option | (domination score - dominated score)/no. comparisons | |
|---|---|---|---|---|---|---|
| **A** | | 5 | 4 | 9 | 0.32 | BEST |
| **B** | 0 | | 2 | 2 | -0.42 | worst |
| **C** | 3 | 5 | | 8 | 0.11 | 2nd best |
| no. criteria for which option is dominated by another option | 3 | 10 | 6 | 19 | | |

Weighted sum method over 3 key IA criteria (full aggregation)

| Policy Options | Effectiveness | Efficiency | Coherence | Mean MCA (equal weights) | |
|---|---|---|---|---|---|
| **A** | 0.49 | 0.14 | 0.13 | **0.25** | BEST |
| **B** | 0.40 | 0.02 | -0.17 | **0.08** | 2nd best |
| **C** | 0.78 | -0.43 | -0.29 | **0.02** | worst |

Condorcet outranking method (over 3 key IA criteria)

| Y Concordance index (no. criteria where x dominates y) X | A | B | C | no. criteria for which the option dominates another option | (domination score - dominated score)/no. comparisons | |
|---|---|---|---|---|---|---|
| **A** | | 3 | 2 | 5 | 0.44 | BEST |
| **B** | 0 | | 2 | 2 | -0.22 | worst ex aequo |
| **C** | 1 | 1 | | 2 | -0.22 | worst ex aequo |
| no. criteria for which option is dominated by another option | 1 | 4 | 4 | 9 | | |

**Maximal values of quantified efficiency**

AUTOMATED sensitivity calculations (comparing 3 options)

| Policy Options | Effectiveness/Obj. 1 | Effectiveness/Obj. 2 | Effectiveness/Obj. 3 | Coherence/Obj. 1 | Coherence/Obj. 2 | Coherence/Obj. 3 | Efficiency (quantified)/ Net Present Value (discount rate 5%) | Efficiency (qualitative assessment) | Average of normalised scores for each dimension | |
|---|---|---|---|---|---|---|---|---|---|---|
| **A** | 0.35 | 0.60 | 0.53 | 0.38 | 0.00 | 0.00 | 894.51 | 1.27 | **0.26** | BEST |
| **B** | 0.20 | 0.60 | 0.40 | -0.50 | 0.00 | 0.00 | 3137.61 | 0.38 | **0.12** | 2nd best |
| **C** | 0.75 | 1.00 | 0.60 | -0.38 | -0.50 | 0.00 | -14673.60 | 1.21 | **0.06** | worst |

| | Normalised efficiency (NPV) | Normalised efficiency (qualitative) | Average efficiency (NPV)/effectiveness/coherence | |
|---|---|---|---|---|
| A | 0.053140293 | 0.253846154 | **0.22** | BEST |
| B | 0.186396552 | 0.075 | **0.14** | 2nd best |
| C | -0.871716271 | 0.241666667 | **-0.13** | worst |

(impacts assessed are net of the baseline, so no

| EFFECTIVENESS | Baseline | Option A | Option B | Option C |
|---|---|---|---|---|
| M1.1 Limitation of prepayments | 0.00 | 2.00 | 4.00 | 5.00 |
| M1.2 Rapid refund mechanism | 0.00 | 2.00 | 0.00 | 5.00 |
| M1.3 B2B refund right | 0.00 | 2.00 | 0.00 | 5.00 |
| M1.4 Vouchers | 0.00 | 1.00 | 0.00 | 0.00 |
| **score (objective 1)** | **0.00** | **1.75** | **1.00** | **3.75** |
| **normalised score (objective 1)** | **0.00** | **0.35** | **0.20** | **0.75** |
| M2.1 Strengthed insolvency protection (back-up fund) & coverage | 0.00 | 3.00 | 3.00 | 5.00 |
| **score (objective 2)** | **0.00** | **3.00** | **3.00** | **5.00** |
| **normalised score (objective 2)** | **0.00** | **0.60** | **0.60** | **1.00** |
| M3.1 Partial Deletion LTAs | 0.00 | 5.00 | 3.00 | 1.00 |
| M3.2 Cancellation rights/travel | 0.00 | 2.00 | 2.00 | 5.00 |
| M3.3 role parties | 0.00 | 1.00 | 1.00 | 3.00 |
| **score (objective 3)** | **0.00** | **2.67** | **2.00** | **3.00** |
| **normalised score (objective 3)** | **0.00** | **0.53** | **0.40** | **0.60** |
| **AVERAGE over the 3 objectives** | **0.00** | **0.49** | **0.40** | **0.78** |

| COHERENCE | Baseline | Option A | Option B | Option C |
|---|---|---|---|---|
| M1.1 Limitation of prepayments | 0.00 | 0.00 | -2.00 | -1.00 |
| M1.2 Rapid refund mechanism | 0.00 | 0.00 | 0.00 | -1.00 |
| M1.3 B2B refund right | 0.00 | 1.00 | 0.00 | -1.00 |
| M1.4 Vouchers | 0.00 | 2.00 | -2.00 | 0.00 |
| **score (objective 1)** | **0.00** | **0.75** | **-1.00** | **-0.75** |
| **normalised score (objective 1)** | **0.00** | **0.38** | **-0.50** | **-0.38** |
| M2.1 Strengthed insolvency protection (back-up fund) & | 0.00 | 0.00 | 0.00 | -1.00 |
| **score (objective 2)** | **0.00** | **0.00** | **0.00** | **-1.00** |
| **normalised score (objective 2)** | **0.00** | **0.00** | **0.00** | **-0.50** |
| M3.1 Partial Deletion LTAs | 0.00 | 0.00 | 0.00 | 0.00 |
| M3.2 Cancellation rights/travel | 0.00 | 0.00 | 0.00 | 0.00 |
| M3.3 role parties | 0.00 | 0.00 | 0.00 | 0.00 |
| **score (objective 3)** | **0.00** | **0.00** | **0.00** | **0.00** |
| **normalised score (objective 3)** | **0.00** | **0.00** | **0.00** | **0.00** |
| **AVERAGE over the 3 objectives** | **0.00** | **0.13** | **-0.17** | **-0.29** |

Condorcet outranking method (partial compensation over 8 sub-criteria)

| Y Concordance index (no. criteria where x dominates y) | A | B | C | no. criteria for which the option dominates another | (domination score - dominated score)/no. comparisons | |
|---|---|---|---|---|---|---|
| **A** | | 4 | 4 | 8 | 0.21 | BEST |
| **B** | 1 | | 2 | 3 | -0.32 | worst |
| **C** | 3 | 5 | | 8 | 0.11 | 2nd best |
| no. criteria for which option is dominated by another option | 4 | 9 | 6 | 19 | | |

Weighted sum method over 3 key IA criteria (full aggregation)

| Policy Options | Effectiveness | Efficiency | Coherence | Mean MCA (equal weights) | |
|---|---|---|---|---|---|
| **A** | 0.49 | 0.15 | 0.13 | **0.26** | BEST |
| **B** | 0.40 | 0.13 | -0.17 | **0.12** | 2nd best |
| **C** | 0.78 | -0.32 | -0.29 | **0.06** | worst |

Condorcet outranking method (over 3 key IA criteria)

| Y Concordance index | A | B | C | no. criteria for which the option dominates another option | (domination score - dominated) | |
|---|---|---|---|---|---|---|
| **A** | | 3 | 2 | 5 | 0.44 | BEST |
| **B** | 0 | | 2 | 2 | -0.22 | 2nd best |
| **C** | 1 | 1 | | 2 | -0.22 | worst |
| no. criteria for which option is | 1 | 4 | 4 | 9 | | |

# Preferred Option – costs & benefits for travellers only

| Benefits and costs in EUR million | One off | Recurring | Minimum Values | Maximum values | Methodology | Option benefits |
|---|---|---|---|---|---|---|
| **Benefits** | | | | | **Qualitative assessment scale: 0-5** | **A** |
| Measure 1.1.1 Flexible limitation of prepayments - benefit to consumers - reduction of consumer detriment in view of lower prepayment (liquidity gain) | | **168.7** | **168.7** | **168.7** | Reduction of 5 percentage points of the average prepayments for packages on 4.4% of packages affected (in normal times) by financial loss. | **M1.1.1** |
| Measure 1.2.1 Possibility to set up a crisis fund at national level | | | | | Qualitative assessment: 1. With a 100% uptake, the costs would be EUR 322.3 million, but uptake is expected to be low and hence costs minimal. Operating costs in times of crisis: EUR 700k/year. Cost-neutral in the long-term. | **1** |
| Measure 1.3.1 Business-to-business refund right - benefit to customers - reduction of consumer detriment in view of timelier refunds | | | | | Qualitative assessment: 2 | **2** |
| Measure 1.4.1 Voluntary vouchers - clarification benefit for consumers | | | | | Qualitative assessment: 1. | **1** |
| Measure 2.1 - Mention insolvency back-up fund and coverage of vouchers and refund claims - benefits for consumers | | | | | Qualitative assessment: 3. Coverage vouchers and refund claims and potential back-up fund improves consumer protection. | **3** |
| Measure 3.1.1 LTAs - benefits for consumers | | | | | Qualitative assessment: 4. Clarification benefits and less circumvention of rules, higher consumer protection. | **4** |
| Measure 3.2.1 Specifications on cancellations - consumers | | | | | Qualitative assessment: 1. Some clarification benefits | **1** |
| Measure 3.3.1 Clarification on the role of different parties - benefit to consumers - reduction in consumer detriment | | **38.6** | **19.3** | **57.8** | Expected reduction of consumer detriment between EUR 19.3 million and EUR 57.8 million (on average EUR 38.6 million) | **M3.3.1** |
| **Total Benefit** | - | **207.2** | **188.0** | **226.5** | - | 0.92 |
| | | | | | | **Option costs** |
| **Costs** | | | | | | **A** |
| Measure 1.1.1 Flexible limitation of prepayments - lower prepayments (cost pass through from organisers to travellers - increased prices ) | | **332.1** | **332.1** | - | High-level estimate of the cost increase for organisers: 3%. This will be fully passed through to consumers, resulting in a price increase of EUR 15 per package (approx 1% of the package price). | **M1.1.1** |
| Measure 2.1 - Mention of insolvency back-up fund and coverage of vouchers and refund claims - costs for consumers | | | | | Qualitative assessment: 1. If there are any cost increases, likley 100% pass-through from organisers. | **1** |
| **Total Cost** | - | **332.1** | **332.1** | - | | 0 |
| **Net Impact (Total Benefit - Total Cost)** | - | **124.9** | **144.2** | **226.5** | | |
| **Benefit Cost Ratio (Total Benefit / Total Cost)** | | **0.62** | **0.6** | **#DIV/0!** | *Net B-N* | 0.80 |

## 2. ADDITIONAL RANKING OF OPTIONS

In addition to the scoring and ranking of options presented in the main text of this SWD and in part 1 of this Annex 10, the options have also been ranked based on individual assessment criteria.

as the results of this ranking are shown in Table below (ranking from 1= best performing to 4=worst performing)

| | Assessment | Ranking |
|---|---|---|
| **Status quo** | Under the baseline option, i.e. the status quo, there would be no change compared to the current state of affairs.<br>Effectiveness:4th \| Efficiency: 3rd \| Coherence: 2nd | **4** |
| **Option A** | Option A ensures the highest degree of efficiency and legal coherence. It ranks second in terms of effectiveness, behind Option C.<br>Effectiveness: 2nd \| Efficiency: 1st \| Coherence: 1st | **1** |
| **Option B** | Option B scores second on efficiency and coherence. It scores third of the change options on effectiveness.<br>Effectiveness: 3rd \| Efficiency: 2nd \| Coherence: 3rd | **2** |
| **Option C** | Option C would lead to the most significant improvement in terms of effectiveness. In contrast, it performs the worst of the change options with regard to efficiency and coherence.<br>Effectiveness: 1st \| Efficiency: 4th \| Coherence: 4th | **3** |

# ANNEX 11: PRESENTATION OF THE PACKAGE TRAVEL DIRECTIVE

## I. Overview of the Package Travel Directive

- **Date of application**

Directive (EU) 2015/2302 ('the Package Travel Directive', 'the Directive', 'the 2015 Directive' or 'the PTD') had to be transposed by the Member States by 1 January 2018. It started applying on 1 July 2018.[478]

The 2015 Directive repealed Directive 90/314/EEC ('the 1990 Directive') with effect from 1 July 2018.[479] It was incorporated into the European Economic Area Agreement on 22 September 2017.

- **Aim**

The Directive aims 'to contribute to the **proper functioning of the internal market** and to the achievement of **a high and as uniform as possible level of consumer protection** by approximating certain aspects of the laws, regulations and administrative provisions of the Member States in respect of contracts between travellers and traders relating to **package travel** and **linked travel arrangements**.'[480]

The current Directive, unlike the repealed 1990 PTD, is a full harmonisation directive (Article 4). Still, it gives the Member States regulatory options in a few specific respects (e.g., regarding the full liability of retailers in addition to the liability of organisers).

- **Scope**

The Directive applies to:
- packages offered for sale or sold by traders to travellers;
- to linked travel arrangements facilitated by traders for travellers.

The Directive does not apply to travel arrangements:
- covering less than 24 hours, unless an overnight stay is included;
- offered occasionally, on a not-for-profit basis and only to a limited group of travellers;
- purchased as part of a general agreement for travel relating to a business or profession.[481]

- **Main features of the 2015 Directive**

Key terms

The concept of **packages** already existed in the 1990 Directive, but it is broader under the 2015 Directive, going beyond pre-arranged combinations of travel services.

Under Article 3(2) of the Directive, packages are:
- a combination of at least two different types of travel service (e.g., a flight or rail trip combined with hotel accommodation):

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[478] Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, (OJ L 326, 11.12.2015, p. 1–33); https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L2302#:~:text=Directive%20%28EU%29%202015%2F2302%20of%20the%20European%20Parliament%20and,of%20the%20Council%20and%20repealing%20Council%20Directive%2090%2F314%2FEEC

[479] Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p. 59–64); EUR-Lex - 31990L0314 - EN - EUR-Lex (europa.eu)

[480] Article 1

[481] Article 2

- pre-arranged or customised, as part of the same trip, sold by one trader and a single contract is concluded

*or*

- irrespective of whether separate contracts are concluded with individual traders, if one of the following is met:
  - the combination was purchased from a single point of sale and the travel services have been selected before the traveller agrees to pay, within the same booking process[482]
  - it was offered, sold or charged at an inclusive or total price,
  - advertised or sold under the term 'package' or under a similar term,
  - combined after the conclusion of a contract which entitled the traveller to choose among a selection of travel services (i.e., travel gift boxes)
  - *click-through packages:* combinations purchased from separate traders through linked online booking processes where the traveller's name, payment details and e-mail address are transmitted from the trader with whom the first contract is concluded to another trader or traders and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

A new concept was introduced: **linked travel arrangement (LTA**) as a category between packages and mere stand-alone services.
Under Article 3(5), there is a linked travel arrangement where at least two different types of travel services are purchased for the same trip or holiday, usually under separate contracts with the individual travel service providers and if, in addition, the conditions of letters (a) or (b) are met.

Under letter (a) the bookings of the travel services must take place on the occasion of a single visit or contact with a point of sale (online or off-line) and the services are selected and paid for separately;
*or*
Under letter (b) the booking of a second service is facilitated in a targeted manner and the contracts for additional travel services are concluded within 24 hours from the confirmation of the booking of the first travel service.

There can be no LTA if the criteria of a package are met.

*Other relevant terms:*
**Travel services** include
- carriage of passengers,
- accommodation that is not intrinsically part of carriage of passengers and is not for residential purposes,
-rental of cars and of other motor vehicles,
-any other tourist service[483] not intrinsically part of a travel service mentioned earlier.[484]

If other tourist services are combined with a travel service, for instance accommodation, this leads to the creation of a package or linked travel arrangement only if the tourist services account for a

[482] Recital 10
[483] Rectal 18: 'Other tourist services which are not intrinsically part of carriage of passengers, accommodation or the rental of motor vehicles or certain motorcycles, may be, for instance, admission to concerts, sport events, excursions or event parks, guided tours, ski passes and rental of sports equipment such as skiing equipment, or spa treatments.'
[484] Article 3(1)

significant proportion of the value of the package or linked travel arrangement or are advertised as or otherwise represent an essential feature of the trip or holiday. 'If other tourist services account for 25 % or more of the value of the combination, those services should be considered as representing a significant proportion of the value of the package or linked travel arrangement.'[485]

**Organiser** is a 'trader who combines and sells or offers for sale packages, either directly or through another trader or together with another trader, or the trader who transmits the traveller's data to another trader' in the case of click-through packages.[486]

**Retailer** is 'a trader other than the organiser who sells or offers for sale packages combined by an organiser'.[487]

**Traveller** is **'**any person who is seeking to conclude a contract or is entitled to travel on the basis of a contract concluded, within the scope of this Directive'.[488]

**Unavoidable and extraordinary circumstances** are situations beyond the control of the party who invokes them 'and the consequences of which could not have been avoided even if all reasonable measures had been taken'. 'This may cover for example warfare, other serious security problems such as terrorism, significant risks to human health such as the outbreak of a serious disease at the travel destination, or natural disasters such as floods, earthquakes or weather conditions which make it impossible to travel safely to the destination as agreed in the package travel contract'.[489]

Key rights

- **Pre-contractual and contractual information** of travellers

***For Packages***

Organisers or retailers must provide to the traveller **information** on the main characteristics of packages and rights of travellers, inter alia through a standardised information form **prior to conclusion of the contract**.

**The standardised information form** includes information on:
- the fact that the combination of travel services constitutes a package;
- the identity and the liability of the organiser (and, where appropriate, the retailer) for the performance of the package travel contract.;
- the fact that insolvency protection is in place (including the right to the refund of payments and the right to repatriation where carriage of passengers is included)
- contact details of the insolvency protection entity
- key rights of package travellers.

After booking, **the package travel contract** must be provided on a durable medium. It must contain the full content of the agreement.

***For LTAs***

[485] Recital 18
[486] Article 3(8)
[487] Article 3(9)
[488] Article 3(6)
[489] Recital 31

**Prior to conclusion of the contract**(s), traders must inform travellers, through one of five available forms, on:
- the fact that the traveller does not benefit from the rights applying to packages **and that each service provider is responsible for his service,**
- the conditions under which travel services become an LTA (*if the traveller books an additional travel service during the same visit*)
- information on insolvency protection

**Some important rights in relation to packages**

- **Price changes** (Article 10)

8% cap for possible price increases by the trader, beyond which travellers have the right to cancel the package free of charge.

Price increases are only allowed if the contract expressly reserves that possibility and if they directly result from:
- the cost of fuel or other power sources;
- third-party tax or fee increases;
- exchange rates.

Any price increase should be notified at least 20 days before the start of the package.
If the contract reserves the possibility of price increase, the organiser also has to grant price reductions where relevant.

- **The right of travellers to a full refund of any payments in the event of cancellation of the contract under certain conditions**

- If, before the start of the package, the organiser is constrained to alter significantly any of the main characteristics of the travel services or cannot fulfil the special requirements or proposes to increase the price of the package by more than 8 %, the traveller may within a reasonable period specified by the organiser (a) accept the proposed change, or (b) terminate the contract without paying a termination fee. (Article 11(2))

- If the traveller does not accept a substitute package, the organiser shall refund all payments made by or on behalf of the traveller without undue delay and in any event not later than 14 days after the contract is terminated. (Article 11(5))
- If the traveller or the organiser cancel the contract before departure in the event of 'unavoidable and extraordinary circumstances', such as natural disasters, war, or other serious situations at the destination, otherwise cancellation against compensation. (Article 12(2) and (3))

- Clear identification of the liable party for the performance of the contract (Article 13, Article 16 and Article 20 plus the forms in Annex 1)

- Liability of the organiser of the package for all included travel services across the EU; Member States may decide whether the retailer is jointly liable.
- If the organiser is established outside of EEA, the EU retailer is subject to the obligations laid down for organisers if the organiser does not comply.
- The organiser is obliged to offer suitable alternative arrangements, if impossible, provide repatriation and accommodation for three nights
- The organiser is obliged to provide assistance without undue delay to a traveller in difficulty.

- **Insolvency protection** ((Article 17, Article 18 and Article 19)

- Insolvency protection requirements for package organisers and LTA facilitators
- The insolvency protection covers: (a) refunds without undue delay if a service is not performed; (b) repatriation, and if necessary, accommodation, where carriage of passengers is included in package; for LTAs, repatriation if the facilitator is responsible for the carriage of passengers
- Mutual recognition of insolvency protection of insolvency protection and administrative cooperation. Any insolvency protection an organiser provides in accordance with the measures in the Member State of its establishment have to be recognised by any other Member State. To facilitate the administrative cooperation and supervision of organisers operating in different Member States, Member States must designate central contact points.

**II. Transposition and implementation**

According to Article 28(1), Member States were required to transpose the PTD by 1 January 2018. The Commission opened infringement procedures for non-communication of national transposition measures against 14 Member States. Two Member States transposed the Directive only after the Commission had issued a reasoned opinion pursuant to Article 258 of the TFEU. By March 2019, all Member States had notified the Commission of the complete transposition of the Directive.[490]

Potential non-conformity issues on different aspects of the Directive may exist, to a different extent, in all Member States, particularly in relation to definitions (including the main concepts), pre-contractual information requirements, travellers' termination rights and termination fees, liability for lack of or improper performance of the contract, the obligations of traders facilitating LTAs, liability for booking errors, and the effectiveness of the transposition regarding insolvency protection.[491] The Member States were obliged to apply the rules transposing the PTD from 1 July 2018.

After this date, Member States and some EEA countries[492] adopted further measures in relation to the PTD.[493] Several Member States adopted *temporary rules deviating from the PTD*, 15 of them giving package organisers the possibility to significantly extend the periods for reimbursements or make vouchers mandatory for travellers.[494] In July 2020, the Commission opened infringement proceedings against 11 Member States.[495] The infringement proceedings were closed after the relevant Member States repealed the legislation deviating from the PTD or after the relevant measures had expired. On 8 June 2023, the Court of Justice of the European Union (CJEU) confirmed the Commission's interpretation in the one remaining infringement case and in a preliminary ruling.[496] The CJEU confirmed that the PTD aims at full harmonisation[497] and that the term 'refund' in the PTD implies a refund consisting in an amount of money which travellers can dispose of freely and does not include

[490] PTD application report, p. 3.
[491] Ibidem, p. 3 and 4.
[492] E.g., Norway, Iceland. No relevant information was identified in Lichtenstein.
[493] The national transposition measures in all Member States are publicly available at: https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32015L2302.
In addition, Annex VIII to this SWD presents the measures adopted by the MS/EEA countries since July 2018.
[494] See also Annex 13, Evaluation, Appendix IX. Package travel during the COVID-19 pandemic
[495] See Commission's press communications of 2 July and 30 October 2020 (under point 5 – Justice): https://ec.europa.eu/commission/presscorner/detail/en/INF_20_1212 and https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687
[496] Case C-407/21, ECLI:EU:C:2023:449, CURIA - List of results (europa.eu) and Case C-540/21, ECLI:EU:C:2023:450, CURIA - List of results (europa.eu)
[497] Case C-407/21, ECLI:EU:C:2023:449, paragraph 59, Case C-540/21, ECLI:EU:C:2023:450, paragraph 23

the idea of a voucher.[498] The CJEU concluded that the Member States were not allowed to adopt national legislation releasing organisers temporarily from the obligation to reimburse prepayments to travellers within 14 days of the termination of the contract.[499]

There were also aid schemes to provide support to transport and travel businesses, including guarantee schemes in the event of their insolvency as well as refunds to travellers in the event of cancellations.[500]

## III. Overview of some consumer rights under the Air Passenger Rights Regulation (EC) No 261/2006 (APRR) and the Package Travel Directive (EU) 2015/2302 (PTD)

[498] Case C-407/21, ECLI:EU:C:2023:449, paragraphs 30 and 33 and Case C-540/21, ECLI:EU:C:2023:450, paragraph 69

[499] Case C-407/21, ECLI:EU:C:2023:449, paragraph 76

[500] Annex 13, Evaluation, Appendix IX *The package travel during the Covid-19 pandemic* contains data on state aid schemes

## Overview of some consumer rights under the Air Passenger Rights Regulation (EC) 261/2006 (APRR) and the Package Travel Directive (EU) 2015/2302 (PTD)

| | APRR | PTD |
|---|---|---|
| **INSOLVENCY PROTECTION** | Passengers' prepayments are not protected against the insolvency of air carriers. | Travellers' prepayments are protected against the insolvency of organisers. |
| **VOUCHERS** | Air carriers may pay refunds and compensation to passengers in travel vouchers, with the signed agreement of the passenger. | Any refund must be made in money.<br>Vouchers currently not regulated as an alternative to refunds. |
| **B2B REFUND RIGHTS** | There are currently no provisions on reimbursement between air carriers and organisers/intermediaries. Only carriers are legally responsible for refunds. | General provisions on the right of organisers/retailers to seek redress from third parties, but currently no explicit refund right within a given deadline for cancelled services. |
| **CANCELLATION DUE TO EXTRAORDINARY CIRCUMSTANCES** | - Extraordinary circumstances exempt air carriers from the right to compensation, provided that the air carrier can prove that these circumstances could not have been avoided even if all reasonable measures are taken.<br><br>- Passengers have the right to reimbursement within 7 days, if the airline cancels the flight. Passengers may not cancel the flight themselves due to 'extraordinary circumstances'.<br><br>- No right to reimbursement against the airline where a right to reimbursement arises under the PTD | - 'Unavoidable and extraordinary circumstances' (UEC) have an impact on the liability of organisers and give both parties the right to cancel the contract.<br><br>- Travellers have the right to reimbursement within 14 days, but do not have the right to additional compensation for packages cancelled due to UEC by organisers or travellers.<br><br>- Organisers must reimburse travellers where the package is cancelled due to UEC, even if the airline does not cancel the flight. |

# ANNEX 12: LINKED TRAVEL ARRANGEMENTS

The evaluation identified interpretational and enforcement difficulties that could be grouped in two main categories: lack of clarity in key elements of the definition of LTA types (a) and (b) and unclear delimitation between packages and LTAs.

**A)** Lack of clarity in key elements of the definition of LTA types (a) and (b)

Elements of the definition of 'linked travel arrangement' lack clarity and would benefit from further clarifications, according to national authorities, businesses (package travel sector, airlines, and private insolvency protection funds), and consumer organisations.

The following elements have been indicated as the most challenging in terms of interpretation and implementation in practice: - notion of 'facilitation by a trader' (related to both LTA types (a) and (b)), - 'single visit' (related to LTA type (a)), - 'facilitation in a targeted manner' (LTA type (b)), - 'the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service' (LTA type (b)).

**B)** Unclear delimitation between packages and LTAs

The distinction between certain packages and certain LTAs can be difficult.[501] A travel agent, who books a flight and a hotel for a customer for the same trip or holiday and issues one invoice for both services, sells a package. When the same services were selected separately, the travel agent that books them one after the other and does not charge a total price facilitates an LTA.[502]

According to stakeholders, it was difficult for travellers and enforcement authorities to distinguish whether the services were selected jointly (package) or separately (LTA).[503] The uncertain boundaries between packages and LTAs, but also between LTAs and single travel services, made the respective definitions of 'package' and 'linked travel arrangements' difficult to implement in practice. This is likely to have contributed to the fact that stakeholders - businesses, consumers or public authorities - have not been able to properly identify this type of combination of travel services and hence detect any LTA or LTA-related issues in practice. [504]

[501] See flowchart "Package travel or not?" at https://commission.europa.eu/document/653055bf-a1ae-4280-a26d-bf7142fccfa9_en

[502] COM(2021) 90 final, p. 5.

[503] Public Consultation (26a): 70% (191 out of 273) respondents declared that 'the distinction of whether the services were selected jointly (package) or separately (LTA) is difficult to verify for travellers and enforcement authorities'.

[504] This issue was reiterated almost unanimously everywhere in the data collection by stakeholders of all types.

## ANNEX 13: EVALUATION

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## Glossary

| *Term or acronym* | *Meaning or definition* |
|---|---|
| ADR | Alternative Dispute Resolution |
| APRR | Air Passengers Rights Regulation |
| CPCs | Consumer Protection Cooperation Authorities |
| CJEU | Court of Justice of the European Union |
| BEUC | Bureau Européen des Unions de Consommateurs (European Consumer Organisation) |
| B2B | Business-to-Business |
| ECA | European Court of Auditors |
| EEA | European Economic Area |
| EGFATT | European Guarantee Funds' Association for Travel and Tourism |
| EQ | Evaluation Question |
| EU | European Union |
| GO | General Objective |
| IA | Impact Assessment |
| LTA | Linked travel arrangement |
| NCA | National Competent Authority |
| PTD | Package Travel Directive |

| | |
|---|---|
| SMEs | Small and Medium-sized Enterprises |
| SO | Specific Objective |
| TEU | Treaty on European Union |
| TFEU | Treaty on the Functioning of the European Union |
| 2013 IA | 2013 Impact Assessment |

# 1. INTRODUCTION

## 1.1. Purpose and scope of the Evaluation

This Staff Working Document presents the result of the evaluation of Directive (EU) 2015/2302 on package travel and linked travel arrangements ('the Package Travel Directive', 'the Directive', 'the 2015 Directive' or 'the PTD').[505]

In view of a decision on whether the PTD should be revised or whether other solutions are preferable, this evaluation was conducted back-to-back with an impact assessment of possible policy options.

The Directive, adopted on 25 November 2015 and applied since 1 July 2018, protects travellers in the area of package travel and linked travel arrangements (LTAs). It replaced Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours[506] ('the 1990 Directive'), building on its key features related to information requirements, contract changes and liabilities, as well as on the protection of consumers in case of the insolvency of the organiser.

Its legal basis is Article 114 of the Treaty on the Functioning of the European Union (TFEU).[507] According to Article 169(1) and point (a) of Article 169(2) of the TFEU, the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU. Furthermore, in accordance with Article 26(2) TFEU, the Directive aims to create a real consumer internal market in this area, 'striking the right balance between a high level of consumer protection and the competitiveness of businesses'[508] by harmonising the rights and obligations arising from contracts relating to package travel and LTAs.

Since its start in July 2018, certain challenges have appeared in the application of the PTD at normal times and during a crisis, such as the Thomas Cook bankruptcy and the COVID-19 pandemic, as highlighted in the Commission's report of 26.2.2021[509] on the application of the PTD. In the context of these crises, challenges appeared in relation to refunds for cancelled trips as well as the solidity and scope of insolvency protection under the Directive.

In its New Consumer Agenda of 13 November 2020, the Commission announced that it would carry out a 'deeper analysis into whether the current regulatory framework for package travel, including as regards insolvency protection, is still fully up to the task of ensuring robust and

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[505] Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC

[506] Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.

[507] "the European Parliament and the Council shall […] adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the Internal Market." Article 114(3) of the Treaty specifies that "the Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts."

[508] Recital 5 PTD. Hereinafter if articles and recitals are quoted in this document, by default they are of the 2015 Directive.

[509] Report from the Commission to the European Parliament and the Council on the application of Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements, COM(2021) 90 final, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=COM:2021:90:FIN (COM(2021) 90 final)

comprehensive consumer protection at all times, taking into account also developments in the field of passenger rights.'[510]

On 29 June 2021, the European Court of Auditors (ECA) published a special report on air passenger rights during the COVID-19 pandemic.[511] In this report, the ECA made recommendations, asking the Commission to examine how, including through legislative changes, the rights of air passengers and package travellers can be strengthened, including in a crisis, in relation to refunds for cancelled packages and the insolvency of an operator.

Subsequently, the Commission launched an evaluation to assess whether the PTD provides robust and comprehensive consumer protection at all times, including in times of crisis.

In line with the Better Regulation guidelines and toolbox,[512] this evaluation assesses whether the Directive fulfils its main objectives (effectiveness) and what are its costs and benefits for each stakeholder group (efficiency). It also examines the internal coherence of the PTD and its external coherence with other EU instruments[513] as well as the EU added value, including the scope for burden reduction and simplification. Finally, it assesses whether it responds to the needs and expectations of travellers and traders in all Member States/EEA countries (relevance).

The evaluation focuses on developments since 2015 in the 27 EU Member States and in the EEA countries. It addresses questions concerning the application of the PTD that are common to all Member States/EEA countries, although in some instances information and data gathering covered only a limited sample. These instances are indicated in this document.

The evaluation relies on the results of a study,[514] prepared by a contractor, ICF S.A., involving desk research, targeted surveys, interviews and workshops. In addition, the Commission carried out its own consultation activities, including a public consultation and several workshops. Methodological information on how the evaluation was conducted is detailed in *Appendix 4: Analytical methods* to the Impact Assessment.[515]

The protected party in the PTD is the 'traveller' as defined in Article 3(6) of the Directive, encompassing consumers and certain business travellers. This report uses the terms 'traveller' and 'consumer' interchangeably.

[510] Communication from the Commission to the European Parliament and the Council, New Consumer Agenda Strengthening consumer resilience for sustainable recovery, p. 4, EUR-Lex - 52020DC0696 - EN - EUR-Lex (europa.eu)

[511] Special report No 15/2021 - Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts (2021/C 258/05), Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts (europa.eu)

[512] European Commission, *Better Regulation: Guidelines and Toolbox.* https://ec.europa.eu/info/better-regulation-guidelines-and-toolbox_en

[513] E.g. **recent** and future developments in the field of passenger rights and legislation on specific modes of transport

[514] *Study to support the preparation of an evaluation of the Package Travel Directive back-to-back with an impact assessment on its potential revision*

[515] Due to the fact that the evaluation was conducted back-to-back with an impact assessment, some of the annexes are **common** to the two SWD

## 2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?

### 2.1 Description of the intervention logic and its objectives

The 2015 Directive raises the level of consumer protection as compared to the repealed Council Directive 90/314/EEC, taking into account new online booking models for combinations of travel services. This implied, in particular, a broader definition of 'packages',[516] including traditional pre-arranged packages, but also dynamic or custom-made packages offered by different types of traders.[517] A new category of linked travel arrangements (LTAs), between stand-alone services and packages, was created.[518] Whether there is a package, an LTA or merely a stand-alone service depends on the booking process.

The PTD aims to respond to the following key **needs.** Primarily, the 1990 Directive was not adapted to the various packages and customised combinations of travel services that existed in the EU market. At the same time, enhanced transparency and increased legal certainty for travellers and traders was needed, in particular clarifications regarding the liable party for the performance of the package contract towards travellers, and the price after the conclusion of the contract, as well as regarding the lack of a right for travellers to terminate the contract before departure.

The PTD has **two main objectives**: to contribute to the functioning of the internal market and to achieve a high and as uniform as possible level of consumer protection in the package travel sector. These general objectives were specified through related **specific objectives**.[519] For travel businesses, those specific objectives relate to competitiveness, the creation of a level playing field and the increase of cross-border offers and the reduction of unjustified compliance costs. For travellers, the specific objectives are to reduce consumer detriment and increase transparency about the type of product consumers are buying and the related protection, as well as to reduce consumer detriment stemming from unclear and outdated provisions.

The objectives of the Directive are linked to a set of specific provisions (**inputs**), such as harmonised definitions, information at the advertising and pre-contractual stages, including standardised information sheets, traders' liability and, strengthened insolvency protection

To attain its objectives, the Directive:

- Lays down common **definitions** for the key concepts of the Directive, e.g., 'packages',[520] 'travel service', 'linked travel arrangements', 'organiser', and 'traveller".

[516] 'Packages' are combinations of at least two different types of travel services that an organiser, such as a tour operator, an **online** or physical travel agency, an airline or a hotel puts together for travellers. See Article 3(2).
[517] E.g., tour **operators**, online or off-line travel agencies, carriers etc.
[518] **Linked** travel arrangements (LTAs) represent looser combinations of travel services where separate services are selected and paid for by the traveller on one visit to the same point of sale or where the traveller is offered another travel service within 24 hours of having booked a first one. See Article 3(5).
[519] As highlighted in the 2013 Explanatory memorandum, Proposal for a Directive of the European Parliament and of the **Council** on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC, /* COM/2013/0512 final - 2013/0246 (COD) */https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52013PC0512
And in accordance with Article 114 of the Treaty. See also Commission Staff Working Document Impact Assessment, Accompanying the document on package travel and assisted travel arrangements, amending **Regulation** (EC) No 2006/2004l and Directive 2011/83/EU and repealing Council Directive 90/314/EEC /* SWD/2013/0263 final */, page 24 **(SWD/2013/0263 final),** https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52013SC0263
[520] The new 'wide definition of 'package' includes ready-made holidays offered by a tour operator and the customised **selection** of components for a trip or holiday by the traveller at a single online or off-line point of sale'.

- Obliges organisers[521] or retailers[522] to provide to the traveller **information** on the main characteristics of packages and rights of travellers, in a standardised information form prior to conclusion of the contract. This form clearly identifies **the liable party** for the performance of the package travel contract,[523] and informs travellers on the organiser's liability and insolvency protection. The PTD also obliges traders to provide information on LTAs, including on insolvency protection, through standardised information forms.
- Creates strong **cancellation rights** for travellers, i.e., free cancellation before departure in case of significant changes proposed by the organiser after the conclusion of the contract or in the event of unavoidable and extraordinary circumstances.[524] Otherwise, travellers can cancel against a fee.
- Establishes clear conditions under which the package travel contract, including the **price**, can be changed by the organiser.
- Provides for increased **protection** for travellers in case of the **insolvency of the organiser**. It also introduces the principle of mutual recognition of insolvency protection among Member States and facilitates administrative cooperation between them, through a new network of Central Contact Points.

The current Directive, unlike the repealed 1990 PTD, is a full harmonisation directive.[525] Still, it gives the Member States regulatory options in a few specific respects (e.g., regarding the full liability of retailers in addition to the liability of organisers).

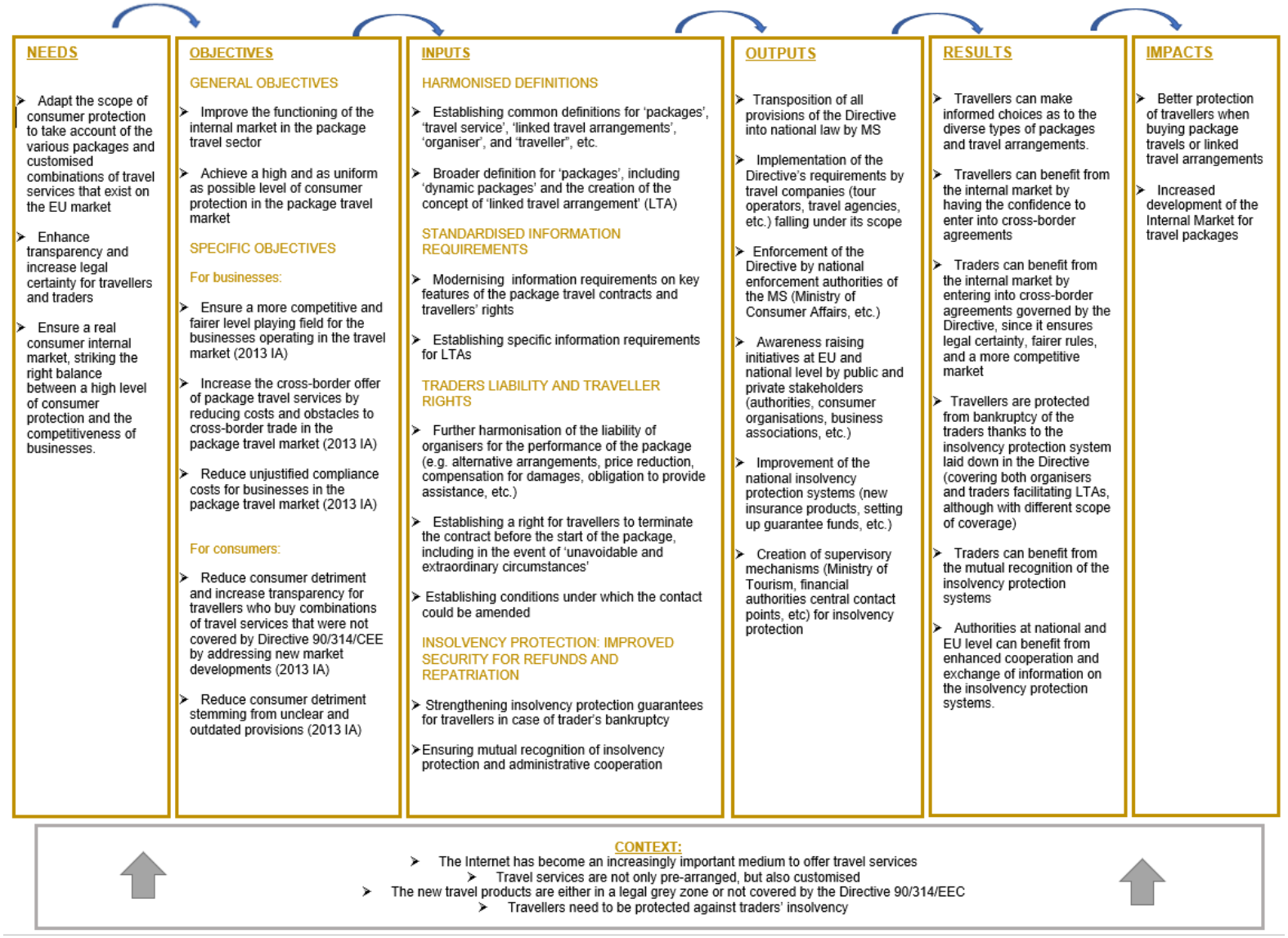
These inputs led to **outputs** at Member State level (transposition, setting up the appropriate bodies for implementation and monitoring, enforcing, and ensuring access to redress) and at the level of traders (compliance and the training of staff).

The expectation (**results and impacts**) was that travellers and traders would benefit from the internal market by cross-border agreements governed by the harmonised rules of the PTD. Also, travellers would benefit from being better informed and thus enjoy the various rights granted by the PTD. In turn, traders would benefit from modernised rules, a level playing field and the mutual recognition of insolvency protection, while national authorities would benefit from enhanced cooperation and exchange of information on the insolvency protection systems.

The figure below presents the **intervention logic**. The aim of the intervention logic is to guide the evaluation process by identifying the needs to which the adoption of the PTD responded and the general and specific objectives of the PTD. It explains how the measures taken (input) can be translated into actions (outputs) that lead to the desired results and impacts. The intervention logic also covers the external factors.

[521] Article 3(8): "'organiser' means a trader who combines and sells or offers for sale packages, either directly or through another trader or together with another trader, or the trader who transmits the traveller's data to another trader in accordance with point (b)(v) of point 2"
[522] Article 3(9): "'retailer' means a trader other than the organiser who sells or offers for sale packages combined by an organiser;"
[523] In addition, Member States may decide that the retailer (often a travel agent) is jointly liable. If the organiser is established outside of EEA (Article 20), then the EU retailer is subject to the obligations laid down for organisers if the organiser does not comply.
[524] Such as natural disasters, war, and significant risks to human health significantly affecting the performance of the package or the **carriage** of passengers to the destination.
[525] Article 4

Figure 1 Intervention logic



### 2.2 Points of comparison

**The package travel sector starting from 2013 up to 2018/spring 2019**

The main baseline for the evaluation is the situation prior to the adoption of the Directive, starting with 2013, when the Impact Assessment for the 2015 revision was finalised.

The period from January 2016 to July 2018 is considered as 'transition period', during which the PTD was being transposed by the Member States. However, some Member States transposed it only after the stipulated deadline.[526]

This section presents the market context and the main challenges related to the implementation of the 1990 Directive.

a) Market context

The tourism industry plays a key role in the EU economy due to its economic and employment potential. Driven by rising income levels and falling costs in aviation and accommodation, globally the number of tourists grew from 680 million in 2000 to over 1.5 billion in 2019.[527] The 2013 Impact Assessment (2013 IA) notes that over the last decades the EU has retained its position as the world's leading destination for tourism.[528,529]

The data on the package travel market from 2013 to 2019 displayed below draws on data from Eurostat,[530] the 2013 IA and information in the literature, as well as on the analysis of relevant questions from the public consultation and targeted consultations conducted for this evaluation, such as targeted surveys, interviews, and workshops.

In 2013, the EU travel market comprised approximately 90000 **tour operators and travel agencies**, with **SMEs** constituting 99% of these businesses, of which micro enterprises represented 92%.[531] The number of travel agencies and other reservation services progressively increased between 2013 and 2018/2019. From 2013 to 2015, the number of operators in the EU increased by 9%, and in the period 2016-2018 by 7%.[532] According to Eurostat data, the number of travel agencies, tour operators and other reservation services in the EU in 2019 was approximately

[526] COM(2021)90 final, page 3. 'In March 2018, the Commission opened infringement procedures for non-**communication** of national transposition measures against 14 Member States. […] By March 2019, all Member States had notified the Commission of the complete transposition of the Directive.'

[527] International Monetary Fund, (2021), Tourism in the Post-Pandemic World. Economic challenges and opportunities for Asia-Pacific and the Western Hemisphere, no. 21/02, p. 3.

[528] SWD/2013/0263 final, p. 5.

[529] In 2018, over one in ten enterprises in the European non-financial business economy belonged to tourism industries. They accounted for 2.3 million enterprises which employed roughly 12.3 million persons.
The non-financial business economy includes the sectors of industry, construction, distributive trades and services.
https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Non-financial_business_economy
See European Parliament (2022), Factsheets of the European Union – Tourism, available at: https://www.europarl.europa.eu/ftu/pdf/en/FTU_3.4.12.pdf

[530] Figures in the tables in the section below are rounded.

[531] European Commission, (2013), Impact Assessment SWD(2013)263 final.

[532] ICF study, NOT PUBLISHED YET

112.000[533] – of which almost 100% were SMEs.[534] By contrast, large companies – more than 250 employees – accounted for 0.1% of EU-27 travel enterprises. Nevertheless, bigger companies, although much fewer in number, generated higher turnover than SMEs.[535]

According to estimates in the 2013 IA, **pre-arranged packages** accounted for about 23% of the total market *value* (i.e., around 118 million trips), not taking into account the dynamic packages which the 2015 Directive aimed to include[536] and which have been effectively included since July 2018. Eurostat figures show that, in 2014, the number of travel package accounted for 9%[537] of the total *number of trips* for personal reasons in the EU (i.e. around 86 million trips).[538,539] In 2017, packages[540] continued to represent 9% of all tourism trips in the EU27.[541] Since, in this period, the 1990 Directive applied, this figure does not reflect any changes brought about by the changed definition of packages and the creation of the new concept of LTAs. Furthermore, the divergence between figures based on the value of trips (23%) as opposed to the number of trips (9%) is not surprising, as it can be assumed that packages will tend to have a higher value than stand-alone services. [542]

Estimates made for the 2013 IA showed that out of 500 million holiday trips, roughly 15 million were **'multi-trader assisted' travel arrangements,** as they are called in that study, and which the 2015 Directive aimed to capture largely as 'linked travel arrangements' (LTAs). Additionally, it showed that the overarching category of travel arrangements customised by travellers, which can include dynamic packages but also LTAs, was on the rise.[543] However, it is very difficult to indicate percentages of what would have been LTAs before July 2018 and of LTAs from July 2018.

b) Main challenges related to the implementation of the 1990 Directive

[533] Ibidem
[534] The number of SMEs accounted for 99.9%. According to Eurostat data, in 2019 travel agency, tour operator and other reservation service and related activities enterprises, in the EU, with 250 persons employed or more were 139.
[535] ICF study, Tables 5, 6 and 7, NOT PUBLISHED YET
[536] European Commission, (2013), Impact Assessment accompanying the document on package travel and assisted travel arrangements, SWD(2013) 263 final, available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2013:0263:FIN:EN:PDF
[537] Comparability with data on pre-arranged packages provided in the 2013 IA is however not possible, given that the sources and the definitions considered might differ.
[538] Information on package travels is gathered through Eurostat datasets, accordingly definitions used are derived from the regulatory framework in force during the timeframe considered. For 2014, the definition of package is contained at art. 2.1 of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.
[539] Trips by trip arrangement (2014-2019), Statistics | Eurostat (europa.eu)
[540] In 2017, the definition of package contained in Directive 90/314 still applied and not Article 3(2) of Directive (EU) 2015/2302 on package travel and linked travel arrangements.
[541] SWD/2013/0263 final, page 2
[542] The package travel sector generated a spending of around EUR 66.50 billion in 2014, which accounted for 23% of the total spending in the EU for personal travel. In 2017, the package travel sector generated an expenditure of roughly EUR 85.04 billion, which continued to account for 23% of the total spending in the EU for travels for personal reasons. Elaborated by ICF based on "Eurostat – Expenditure by type of organisation (from 2014 onwards), purpose – personal reasons, duration – 1 night or over, partner – all countries of the world, trip arrangement – package travel. Regarding EEA countries, the only available data is the number of packages in Norway in 2017, which was approximately 2 million, and constitutes almost 9% of the total number of travel services sold in Norway, generating a total spending of EUR 3 billion, in 2017. ICF study.
[543] **SWD/2013/0263 final, p 12:** 'data shows that 23% of EU citizens buy them every year but the figures are substantially above average for Ireland (46%), Sweden (44%), Italy (36%) and Slovenia (42%).'

The 1990 Directive aimed at creating harmonised minimum standards for package travel across the EU and ensuring the protection of travellers. It applied to pre-arranged packages, typically consisting of transport and accommodation (and/or other tourism services) sold together.

The 1990 Directive ensured that consumers received essential information before and after signing a package travel contract. It provided that organisers and/or retailers were responsible for the proper performance of the package and regulated what happened if there were changes to the package travel contract. It also ensured that travellers received a refund of pre-payments and were repatriated in the event of the organiser's and/or retailer's insolvency.[544]

The adoption of the Directive in 1990 made 'a significant contribution to the development of a single market for an important part of the travel market and created important guarantees for European travellers.'[545] However, it became evident that the Directive was not adapted to the emerging market trends, driven in particular by the expansion of the use of internet. Moreover, significant differences remained in the national laws transposing the Directive 'due to its minimum harmonisation approach' and the broad discretion given to Member States, e.g. with regard to the liable party towards travellers, and ambiguities in the text.[546] Different rules in the Member States discouraged travellers as well as organisers from buying or selling packages and combinations of travel services in another Member State.[547] It was hence 'necessary to further approximate the laws of the Member States relating to packages and linked travel arrangements'.[548]

Therefore, in 2013, the Commission proposed to modernise EU rules on package travel. For **travellers**, the 2013 IA[549] indicated inadequate protection because:

- *Packages combined at the traveller's request were not explicitly covered by the legislation*. An increasing number of holidays booked by travellers,[550] were not protected, falling outside the scope of the 1990 Directive. An increasing number of consumers, in addition to buying pre-arranged packages, used to put together their trips themselves according to their own needs based on specific offers coming from one or more traders.[551] A trend observed at the time were the so-called 'dynamic packages'. An example of dynamic packaging is where an internet platform, e.g., for booking flights, also offers other services such as car-hire, insurance or hotel accommodation that can be added to a shopping basket. Although commercially linked, there may be contracts with each service provider.[552] Therefore, it was often difficult for travellers to understand whether customised travel arrangements which they bought with the assistance of a trader were protected or not against the insolvency of that trader. 67% of consumers who bought customised travel arrangements 'through an intermediary with billings by different companies wrongly believed that they would receive a refund in case of bankruptcy of one of them.' This confusion could lead to

[544] Explanatory memorandum, Proposal for a Directive of the European Parliament and of the **Council** on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC, /* COM/2013/0512 final - 2013/0246 (COD) */ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52013PC0512
[545] SWD/2013/0263 final, p. 5.
[546] Ibidem.
[547] Recital (6).
[548] Ibidem.
[549] SWD/2013/0263 final, p. 14-23.
[550] Packages customised by travellers.
[551] Ibidem.
[552] Study on the Implementation of the Package Travel Directive, European Parliament, 2012 https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/475084/IPOL-IMCO_ET(2012)475084_EN.pdf

significant detriment for travellers, particularly when the travel company went bankrupt, and travellers were left stranded abroad or unable to get their money back.[553]

- *There were uncertainties related to final prices for packages.* Under the 1990 Directive, businesses were allowed to revise the price of the package due to certain increased costs. There was no cap for the possible price increase and consequently travellers lacked certainty in relation to the final price of their package. Travellers could cancel the contract if the price change was significant. However, the term "significant change" was open to interpretation.
- *Travellers did not have the right to terminate the contract before its start* in the event of a serious situation at the place of destination such as a violent conflict, an ecological disaster, or a dangerous and contagious disease.
- *It was unclear which party (organiser, retailer, or both) was liable for the performance of the package and the procurement of insolvency protection.* Divergences in national rules concerning the liable party could be detrimental to travellers, especially if the package was purchased cross-border or where the retailer and the organiser were established in different Member States or where the organiser was based outside the EU. It could lead to situations where the organiser and the retailer referred the traveller to the other party and neither of them would take responsibility.
- *The access to justice was cumbersome as the Directive did not set up any contact points for complaints, minimum prescription periods or mechanisms for out of court dispute resolutions.* The 1990 Directive did not establish any contact points for complaints, minimum prescription periods or mechanisms for out of court dispute resolutions, which had been criticized by and called for by various consumer organisations/bodies.
- *There was uncertainty as to the right to compensation for non-material damages and, in particular, that such compensation can arise from the loss of enjoyment due to the improper performance of the travel contract.*

For **businesses**, the 2013 IA[554] outlines:

- *The absence of a level playing field leading to distortion of competition*. Some of the market players competing for the same customers and selling combinations that could include exactly the same components were covered by the Directive and others not or, at least, did not consider themselves to be covered.
- *Unnecessary/unjustified compliance costs*, e.g., outdated information requirements; unjustified costs for package travel organisers in case of delays, cancellations, force majeure events and accidents related to transport due to insufficient redress mechanisms; lack of coherence with EU passenger rights rules - unlimited liability in case of force-majeure events; duplication of protection for business trips.[555]
- *Legal discrepancies between the Member States leading to additional costs and obstacles to cross-border trade* because of differences in national legislations, e.g., divergent information requirements, different scope of the protection rules, different national rules on liability and obligations of the contractual parties.[556] Also, in cross-border trading, divergent insolvency protection schemes and lack of mutual recognition had resulted in multiple payments for

[553] Ibidem, p. 20 and 21: 'For example, an estimated 1.4-2.2 million air passengers were impacted by an airline insolvency between 2000 and 2010 of these, 12% were stranded away from home incurring the average costs of over €79.668'

[554] Ibidem, p.14.

[555] The 2013 IA refers to the obligation to print binding brochures for the organisers that should have been reprinted in case of changes in prices, accommodation, etc., causing significant costs, unjustified in 'today's Internet world'. Furthermore, where transport was included in the package, in most cases, both the package organiser and transport carriers were obliged to provide compensation and assistance in case of delays, cancellations or accidents to passengers under EU rules on passenger rights.

[556] The 1990 Directive was based on minimum harmonisation. This resulted in legal discrepancies between Member States, generating additional compliance costs for businesses wishing to trade cross-border.

insolvency protection made by some retailers or organisers for insolvency protection already secured in their Member State of establishment.

## 3. HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD?

### Current state of play

This section presents the measures taken by the Member States to transpose and implement the Directive, the market context and business trends since July 2018, and the main challenges related to the implementation of the Directive.

a) Transposition and implementation

According to Article 28(1), Member States were required to transpose the PTD by 1 January 2018. The Commission opened infringement procedures for non-communication of national transposition measures against 14 Member States. Two Member States transposed the Directive only after the Commission had issued a reasoned opinion pursuant to Article 258 of the TFEU. By March 2019, all Member States had notified the Commission of the complete transposition of the Directive.[557]

Potential non-conformity issues on different aspects of the Directive may exist, to a different extent, in all Member States, particularly in relation to definitions (including the main concepts), pre-contractual information requirements, travellers' termination rights and termination fees, liability for lack of or improper performance of the contract, the obligations of traders facilitating LTAs, liability for booking errors, and the effectiveness of the transposition regarding insolvency protection.[558]

The Member States were obliged to apply the rules transposing the PTD from 1 July 2018.

After this date, Member States and some EEA countries[559] adopted further measures in relation to the PTD.[560] Many countries introduced emergency measures to face COVID-19, mostly limited in time (until the country's ending date of the COVID-19 state of emergency). Most measures concerned the possibility to offer vouchers as an alternative to reimbursement in money and/or an extension of the period for reimbursement in case of cancelled packages in the context of the COVID-19 pandemic. There were also aid schemes to provide support to transport and travel businesses, including guarantee schemes in the event of their insolvency as well as refunds to travellers in the event of cancellations.[561]

b) Market context since July 2018, the application date of the PTD

[557] COM(2021) 90 final, p. 3.
[558] Ibidem, p. 3 and 4.
[559] NO, IS. No relevant information was identified in Lichtenstein.
[560] The national transposition measures in all Member States are publicly available at: https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32015L2302.
In addition, Appendix VIII to this SWD presents the measures adopted by the MS/EEA countries since July 2018.
[561] Appendix IX The package travel during the Covid-19 pandemic contains data on state aid schemes.

In 2022, the European region remains the global leader in international tourism, welcoming roughly two-thirds of all international tourist arrivals worldwide.[562,563]

The industry of travel agencies and related services is predominantly composed of micro-enterprises. In 2019, 94% of the EU's travel agencies were companies of 0-9 employees. The remaining 6% was composed of small and Medium-sized Enterprises (SMEs). By contrast, large companies,[564] accounted for 0.1% of EU-27 travel enterprises. Figures on turnover are not comparable due to limited data available.[565]

According to some stakeholders, nowadays, consumers are booking fewer **package holidays,** although the part of the market that is still willing to conclude package travel contracts exists, such as people travelling in group.[566] However, the Market Monitoring Survey found that 81% of EU27 **travellers trust** the package holiday and tour services market, with figures varying from a high of 90% in Croatia and Portugal to a low of 60% in Poland.[567] According to 75% of stakeholders, travellers prefer packages because it is easier to find all the services at the point of sale.[568] In addition, 70% of stakeholders also indicate the offer of more guarantees as a reason for preferring packages.[569]

At the same time, since July 2018 until February/March 2020, the annual share of packages appears to remain stable for offline sales while it increased for the online ones. After February/March 2020 until Mid-2022, both offline and online sales decreased.[570] However, there are no reliable figures indicating how the share of packages as defined in the PTD has developed since July 2018.

It is well known that **the COVID-19 pandemic** hit the travel sector at global level from 2020. All stakeholders consulted indicated that the health crisis impacted the package travel sector to a large extent.[571,572] Moreover, around 90% of EU SMEs were negatively affected by COVID-19

[562] Statista, (2022), Travel and tourism in Europe - statistics & facts, available at: https://www.statista.com/topics/3848/travel-and-tourism-in-europe/#topicHeader__wrapper

[563] According to Eurostat data, the number of travel agency, tour operator and other reservation services in the EU in 2019 was approximately 112 000 of which almost 100% were SMEs563 – employing 470 000 persons. This number has progressively increased over the years, with an overall growth of 26% from 2013 to 2019. Elaborated by ICF based on "Annual enterprise statistics for special aggregates of activities (NACE Rev. 2) [sbs_na_sca_r2], Nace_r2 – Travel agency, tour operator and other reservation service and related activities". ICF study.

[564] With more than 250 employees.

[565] However, bigger companies, although fewer in number, generated higher turnover than SMEs, as also mentioned in Section 2.2., point a).

[566] Scoping interview with consumer organisation – PTD Study, (2022); Minutes of the Workshop of the PTD Study with businesses and consumer representatives, (2022). https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=45600&fromExpertGroups=false

[567] European Commission, (2021), Market Monitoring Survey 2020, p. 6, https://ec.europa.eu/info/sites/default/files/new-cars-mms20-ppt_en.pdf
The Market Monitoring Survey does not provide further details as to what the level of trust exactly entails.

[568] Public consultation Q1: 354 out of 471 respondents.

[569] Ibidem: 332 out of 471 respondents.

[570] Business targeted survey Q.4 – July 2018-Feb/March 2020: Packages sold offline, n. 6 = 3 Increase, 3 Decrease; Packages sold online, n. 7 = 5 Increase, 2 Decrease. Feb/March 2020-July 2021: Packages sold offline, n. 6 = 1 Increase, 5 Decrease; Packages sold online, n. 7 = 1 Increase, 6 Decrease. July 2021-present: Packages sold offline, n. 6 = 2 Increase, 4 Decrease; Packages sold online, n. 7 = 4 Increase, 3 Decrease.

[571] Targeted survey - consumer organisations (Q2) = n. 12 to a large extent.

[572] Targeted survey – national authorities (regulatory and enforcement) (Q22) = n. 27, of which 26 to a large extent, 1 to a small extent.

restrictions, suffering loss of turnover and increasing unemployment rates.[573] However, the World Economic Forum has reported on **signs of recovery** in the market.[574] The outlook remains positive, with travel demand in 2022 projected to be just between 20%[575] and 30%[576] below pre-pandemic levels.

According to a recent consumer survey,[577] after COVID-19, 23% of the respondents are confident to book travel services well in advance of the trip, while 22% prefer booking late, 15% would accept a voucher instead of a refund and are confident about the protection in case of insolvency.

Regarding **LTAs**, there are very limited data on the volume of bookings.[578] In the framework of the consultation for this evaluation, most stakeholders stated that they did not have specific data on LTAs. The reasons for this might include the fact that it is difficult to detect when an LTA is formed.[579]

Lastly, businesses were asked whether there are differences in the share of packages sold in different Member States and the reasons why. The limited number of responses limits the validity of this finding.[580]

c) Business trends

The 2013 IA emphasised that the growing number of internet users triggered the travel market to significantly shift **online**, travel services being the most popular category purchased online.

The trend of purchasing travel services online is continuing. Currently, the tourism sector outperforms other industries in the share of businesses selling online.[581] 43% of travellers who had purchased package holidays and tour services had indeed done so online.[582]

[573] SME United (2020), A view on the COVID impact on and support measures for SMEs, available at: https://www.smeunited.eu/admin/storage/smeunited/200417-covid19-impact1.pdf

[574] 27% rise in nights spent in tourist accommodation in the EU, in 2021 in comparison to 2020, although still 37% less than in 2019. World Economic Forum, (2022), How quickly is tourism recovering from COVID-19?, https://www.weforum.org/agenda/2022/03/europe-tourism-has-slow-pandemic-recovery/

[575] European Travel Commission, (2022), European Tourism 2021 – Trends & Prospects (Q4/2021), https://etc-corporate.org/reports/european-tourism-2021-trends-prospects-q4-2021/

[576] European Travel Commission, (2022), European Tourism 2022 – Trends & Prospects (Q2/2022), available at: https://etc-corporate.org/uploads/2022/07/Quarterly-Report-Q2-2022_Public-1.pdf

[577] Consumer survey, 2022, published on 27 March 2023 and carried out by Ipsos for the European Commission, between 11 and 24 October 2022. 25 676 phone interviews across 27 Member states. Representative sample of citizens aged 18 and over. https://commission.europa.eu/strategy-and-policy/policies/consumers/consumer-protection-policy/key-consumer-data_en

[578] Business stakeholders were asked if the annual share of sold LTAs since July 2018 – when the PTD entered into force – had increased, but the very limited number of answers to this question (three replies) does not allow to reach any conclusion.

[579] This is addressed under EQ1, sub-section on *link travel arrangements*

[580] Business targeted survey Q2, N =11: 4 businesses out of 11 believe that there are differences, whereas the remaining 7 do not know. One stakeholder explained that what makes the sale of packages differ is consumer behaviour and buying patterns for travel

[581] OECD, (2020), OECD Tourism trends and policies - Chapter 2: Preparing tourism businesses for the digital future. See also European Commission, Behavioural study […], p. 20. Also, according to Statista's Digital Market Outlook in 2018, the main global driver for the travel booking market is the internet.

[582] European Commission, (2021), Market Monitoring Survey 2020, p. 6, https://ec.europa.eu/info/sites/default/files/new-cars-mms20-ppt_en.pdf

The increased use of the internet by travellers has influenced the way actors in the travel and tourism sectors conduct their business.[583] The traditional **supply chain** of which tourist services, including transport providers, depended on has been transformed into a complex system of actors, with the advent of new technologies.[584] Frequently online service providers work in partnership with other travel providers. Consequently, they can propose on their websites their partners' options, or they can refer to the website of the respective partner company for the completion of the booking or for adding additional services.[585] Hence, the practices are relevant for the possible conclusion of LTAs, as well.

As already mentioned, to address these trends, the 2015 PTD extended the level of consumer protection, taking into consideration new online booking models for combinations of travel services. This implied in particular a broader definition of 'packages', introducing the so called 'click-through packages', but also the new category of LTAs.[586] In some cases, the uncertainties related to the concept of LTAs has led to abuse by traders. It appears that some traders changed their business models/booking processes to avoid being considered as package organisers. [587]

d) Main challenges related to the implementation of the 2015 Directive

The period from July 2018 to 2022, i.e., 'the application period', corresponds to the current situation. The 'application period' of the evaluation period is further split into two timeframes: before the outbreak of the Covid-19 pandemic, from July 2018 to February/March 2020 and after the outbreak of the Covid-19 pandemic to the present day.

*Before the outbreak of the COVID-19 pandemic (February/March 2020)*

According to the 2021 application report,[588] stakeholders pointed out the following challenges: the broad scope of package definition, unclear definition of LTAs, delimitation between package and LTAs and, finally, burdensome information requirements.

The 2022 Opinion of the Fit for future platform comprises five suggestions: '1. Better information on the identity of the contractual partners and on contact details and better enforcement of rules; 2. Clarification of scope and simplification of the definitions of package and Linked Travel Arrangement; 3. Clarification of pre-contractual information requirements (Art 5); 4. Clarification of uncertainties regarding insolvency protection; 5. Clarification of "other tourist services".[589]

*After the outbreak of the COVID-19 pandemic*

[583] OECD-sponsored research revealed that, on average, 77% of accommodation and food and beverage companies in OECD countries – including 22 EU countries as well as Norway and Iceland – have a website, and 70% use social media to conduct their business. OECD, (2020), OECD Tourism trends and policies […]

[584] The agents who now participate in the creation and distribution of travel information have multiplied, encompassing Online Travel Agencies (OTAs), supplier websites, tour operators, consolidators and meta-search and corporate enterprises. All these channels have acquired a central role, particularly because there is increased travellers' dependence on them, for their purchase decision-making. European Commission, 2020, Behavioural study […], p.9. Behavioural study on advertising and marketing practices in travel booking websites and apps - Publications Office of the EU (europa.eu)

[585] Ibidem, p. 35.

[586] Article 3(2)(v) of the PTD defines the 'click-through packages'. Article 3(5) defines the LTAs.

[587] See EQ1

[588] COM(2021) 90 final, p. 4.

[589] https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en

During the COVID-19 pandemic, thousands of travellers did not receive a refund in money for cancelled holidays.[590] They were either imposed a voucher or suffered a considerable delay or were asked for a termination fee. At the same time, organisers were facing liquidity issues, while the travel service providers refused or delayed the reimbursement of pre-payments.[591]

## 4. EVALUATION FINDINGS (ANALYTICAL PART)

This section presents the findings of the evaluation, grouped under each of the Better Regulation criteria,[592] and based on the triangulation of evidence collected through the different means presented in *Appendix III. Evaluation matrix*.

### 4.1. TO WHAT EXTENT WAS THE INTERVENTION SUCCESSFUL AND WHY?

#### 4.1.1. EFFECTIVENESS

The assessment of effectiveness looks at the extent to which the Directive has succeeded in meeting its objectives.

This section analyses to what extent **the Directive's objectives** of contributing to the functioning of the internal market and achieving a high and as uniform as possible level of consumer protection in the package travel sector have been achieved since the introduction of the Directive. The section also looks at the **specific objectives** as identified by the 2013 IA.[593] For businesses operating in the travel market, the specific objectives aimed to ensure a more competitive and fairer playing (SO1), increase the cross-border offer of package travel services by reducing costs and obstacles to cross-border trade in the package travel market (SO2), and reduce unjustified compliance costs (SO3). For consumers, the specific objectives aimed to reduce consumer detriment and increase transparency for travellers who buy combinations of travel services that were not covered by the 1990 Directive by addressing new market developments (SO4) and to reduce consumer detriment stemming from unclear and outdated provisions (SO5).

Various aspects of the Directive, notably the harmonised definitions, the information to be provided to travellers (in particular in a standardised way), the liability of organisers towards travellers, the protection of travellers against the insolvency of organisers, ensuring refunds of pre-payments and repatriation as well as the mutual recognition of insolvency protection and administrative cooperation, are important in contributing to the functioning of the internal market and preserving a high level of consumer protection.[594]

**EQ1. To what extent do the observed effects correspond to the PTD objectives, and which are the elements that have contributed to improving consumer protection, including in the areas which were previously not explicitly covered by the Directive?**

##### 4.1.1.1. Harmonised definitions

The provision of harmonised definitions for the package travel sector was a key aspect to attain a more competitive and fairer level playing field for businesses operating in the travel market (SO1

[590] See BEUC's Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers' of 14.12.2020, https://www.beuc.eu/press-releases/travel-voucher-chaos-continues-several-eu-countries-and-travel-industry-still
[591] See section 4.1., EQ5. See also Appendix IX. Package travel during the COVID-19 pandemic.
[592] Effectiveness, efficiency, coherence, EU added value of the intervention and relevance.
[593] SWD/2013/0263 final, p. 24
[594] See Intervention Logic, p.5

- businesses), and to reduce consumer detriment by covering combinations of travel services that were not covered by the 1990 Directive and increasing transparency in that respect (SO4 - consumers).

*a) 'Package' (Article 3(2))*

The definition of 'package' is crucial for the scope of the PTD. The amended definition of 'package' was expected to respond to the new purchasing methods developed in particular in the on-line environment.[595] In this respect, the definition covers 'combined travel arrangements' where travellers may reasonably expect to be protected by the PTD given, in particular, how those travel arrangements are presented to travellers.[596] This should ensure the same scope of protection granted within the internal market and an even level of competition and consumer protection.

The evaluation finds that the definition of '*package*' has been overall effective in achieving the PTD's stated objectives.[597] However, evidence points to disagreements between businesses and consumers on the types and range of combination of different travel services that should constitute a 'package', with businesses pleading for the introduction of certain exemptions and consumers firmly opposing this possibility. While these views/policy perspectives are relevant for the future development of the PTD, they do not hinder the effectiveness of the definition of 'package' in the context of the current Directive.

The new concept of '*click-through package*' raised implementation challenges that could affect the effectiveness of the PTD. According to some stakeholders, the concept has no or very limited practical value, is difficult to apply in practice, or changes should be made. Also, most national authorities competent for insolvency protection matters declared that insolvency protection for these packages was difficult to implement and enforce and that the concept did not contribute to achieving the general objectives of the PTD, travellers being deprived by the protection against the insolvency of organisers.

The broadened definition of 'package' limited the exemptions from the scope of the PTD.[598] Consumers and businesses have different views on this point. Consumer associations indicated that the definition should be maintained or that it should cover more combinations of travel services, while businesses indicated that the definition should cover fewer combinations of travel services.[599]

[595] SWD/2013/0263 final, p. 70

[596] Recital 10

[597] Targeted survey: (a) NCAs (regulatory and enforcement) (Q21): 76% (19 out of 25) indicated that the definition of 'package' (Article 3(2)) contributed to the achievement of the PTD objectives 'positively', and 8% 'very positively'; (b) Consumer organisations (Q33): 40% (4 out of 10) of the respondents from consumer organisations stressed that the definition of 'package' represented a major obstacle for the pursuit of PTD objectives; (c) Business associations (Q47): 31% (4 out of 13) of the respondents from business associations stressed that the definition of 'package' represented a major obstacle for the pursuit of PTD objectives.

[598] COM(2021) 90 final, p. 4

[599] Public consultation (Q5): 21% (106 of 504) of the respondents indicated that the definition of a 'package' should be maintained, in particular 57% of consumer organisations (12 of 21) and 16% of companies (51 of 316); According to 34% (172 of 504) of the respondents the definition of 'package' should cover fewer combinations of travel services, in particular 45% of companies (143 of 316) without any consumer organisations in favour of this point. This point was reiterated by BEUC during the ICF Workshop 1 of the PTD, and during the targeted interview carried out by ICF.

In principle, a **broad definition of 'package'** ensures the highest protection for travellers,[600] simultaneously pursuing the general objective of achieving a high and as uniform as possible level of consumer protection and the specific objective to reduce consumer detriment and increase transparency for travellers with regard to travel services that were not covered by the 1990 Directive.

Some business stakeholders called for complete exemption of business travel from the scope of the PTD[601,602] or/and for narrowing of definitions of travel service and of package.[603] The business stakeholders consider disproportionate to apply the PTD to such a wide range of combinations of travel services,[604] especially in light of the pursuit of the reduction of unjustified compliance costs (SO3).[605,606]

Nevertheless, these ideas would result in a narrower scope of the PTD, lowering the protection for small businesses booking travel arrangements for themselves or for their employers. These SME travellers require the same level of protection as consumers.[607] Any measure aimed at limitation of the scope, including the definition of package, would inevitably result in a lower level of consumer protection, in some cases falling back behind the protection level of the 1990 Directive and compromising one of the main objectives of the PTD. Consumer organisations clearly oppose any such measure, and many businesses do not support such ideas.[608] Furthermore, there is limited evidence, if any, for the alleged problems.

The 2015 PTD introduced **additional clarifications**. For instance, it establishes conditions under which certain combinations of travel services are not considered as packages.[609] Some stakeholders seem to face practical difficulties when discerning whether certain combinations of travel services

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[600] BEUC (2021), *"The Package Travel Directive. BEUC's Position on how to regain consumers' trust in the tourism sector"*: p. 26: a 'broad scope grants consumers strong protection'.

[601] Article 2(2)(c), i.e., not only in case of general agreements.

[602] Raised for example in position papers and open text replies submitted in the public consultation, in particular in the context of the coordinated replies of a number of Dutch SME respondents.

[603] Article 3(1) and (2), e.g., specific (sport) services or SME hotels should be excluded.

[604] Public consultation Q5a (open question): in their open-text answers, several companies and business associations reiterated this point, stressing that further widening of the definition of 'package' would result in disproportionate burdens for the package travel sector. For instance, an EU-level business association highlighted that 'extending the definition of a "package" to other types of travel combinations involving e.g., de minimis 'other services' (theatre ticket or a pre-paid meal), or to standalone travel services would be highly disproportionate, unduly burdening the entire travel industry with excessive obligations and resulting in an increase in costs for consumers'. Several other similar replies were provided.

[605] The Opinion of the Fit for future platform, in its suggestion 2, stated that '[t]he definition of package is sufficient and reflects the realities of the market; however, albeit considering that consumers need to benefit from the same high level of protection regardless of the size of the operator, an assessment of its impact on SMEs activities is suitable in the context of the evaluation in particular to assess whether or not and how SMEs comply with the requirements and at what costs.'

[606] In this respect, the consultations during the evaluation confirm the views reflected in the in the 2021 Application Report, COM(2021) 90 final, p. 4.

[607] As explained in Recital 7: 'At the same time, it is not always easy to distinguish between consumers and representatives of small businesses or professionals who book trips related to their business or profession through the same booking channels as consumers. Such travellers often require a similar level of protection.'

[608] Public consultation Q5: 143 of 316 (45% of) companies and 18 of 48 (38% of) business associations stated that the definition of package should cover fewer combinations of travel services. The rest of these respondents was almost equally divided between the following replies: it should be maintained, it should clarify or it should cover more combinations.

[609] Only an 'other tourist service' of '25% or more of the value of the combination' should be considered as contributing, in combination with other types of travel services mentioned by Article 3(1), to the formation of a 'package'. See second sub-paragraph of Article 3(2)(b). Recital 18 explains the conditions for this exemption.

constitute a package.[610,611] However, the different views on whether more or fewer combinations should be exempted from the definition of package do not indicate that the current provision is not effective for the pursuit of the Directive's objectives.

One means of addressing the emerging trends in the package travel sectors, i.e., online bookings of combinations of travel services, was the introduction of a definition of '**click-through package**'.[612] Under this definition, a package is formed where specific personal data (name, e-mail and payment details of the traveller) are transferred from one trader to another trader in connection with the booking of different travel services for the same trip or holiday and where the second contract is concluded within 24 hours of the first contract. Travellers must receive a specific standard information form.

In June 2019, the Commission issued a first report, on the provisions of the Directive applying to online bookings made at different points of sale. The report suggested that 'the offer of 'click-through packages' appears to be a rather rare phenomenon' indicating that there was not a clear 'picture of the prevalence of 'click-through packages' on the market.'[613]

There are implementation and enforcement challenges regarding the two conditions in the definition, (transmitting all three types of personal data and the 24-hour limit), especially on 'prov[ing] whether a package, an LTA or none of them was concluded'.[614] More than one third of stakeholders indicated that the definition should be repealed, as it has no or very limited practical value or is difficult to apply in practice,[615] while another significant share considered that certain other changes should be made.[616] Also, most national authorities (NCAs) competent for insolvency protection matters declared that the definition of 'click-through packages' did not contribute to achieving the general objectives of the PTD,[617] and that is difficult to implement and enforce the insolvency protection for these packages.[618] This indicates that, with regard to the definition of click-through package, the PTD was only partially effective in achieving its general and specific objectives.

*b) Linked travel arrangement (Article 3(5))*

[610] Public consultation, Q8: presentation of the replies in *Appendix 2 Stakeholder consultation (Synopsis report)* to the Impact Assessment

[611] The Opinion of the Fit for purpose platform, in its Suggestion 5: Clarification 'other tourist services', states that '[i]n practice, there is a lot of uncertainty when it comes to defining a particular service as "other tourist service". This particularly applies to single travel service providers who offer *another tourist service* and become therefore organisers within the meaning of the PTD, without being aware.'

[612] Article 3(2)(v)

[613] Report from the Commission to the European Parliament and the Council on the provisions of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements applying to online bookings made at different points of sale, COM(2019)270 final, 21.6.2019, accompanied by the Staff Working Document SWD(2019) 270 final, p.4, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2019:0270:FIN:EN:PDF

[614] Various stakeholders pointed out that the condition of '*at the latest 24 hours after the confirmation of the booking of the first travel service'* is difficult to apply in a uniform manner. COM(2021) 90 final, p. 6.

[615] Public Consultation (Q7): 37% (168 out of 454). Looking at specific stakeholders: 19% of consumer organisations (4 of 21), 37% of companies (101 of 274), and 47% of business associations (21 of 45).

[616] Public Consultation (Q7): 27% (122 out of 454). Looking at specific stakeholders: 33% of consumer organisations (7 of 21), 24% of companies (66 of 274), and 40% of business associations (18 of 45).

[617] Targeted survey (Q15): 33% (4 out of 12) of the NCA (insolvency) replied 'not at all'.

[618] Targeted survey (Q17): 50% (6 out of 12) of the NCA (insolvency) replied 'to a very great extent'.

There are indications that the definition of Linked Travel Arrangements (LTAs), for both type (a) and type (b),[619] has proved not effective in achieving PTD's stated objectives. The lack of clarity in key elements of the definition of LTAs led to interpretation and enforcement difficulties and to unclear delimitation between packages and LTAs. Furthermore, in some cases, the uncertainties related to the concept of LTAs has led to abuse by traders.[620] It appears that some traders changed their business models/booking processes to avoid being considered as package organisers. As a result, travellers were deprived of the guarantees for packages, including in relation to liability for the combination of travel services and effective insolvency protection.[621]

The fact that there are hardly any figures on LTAs points to the potential core issues affecting LTAs, namely the difficulties for stakeholders in discerning, in practice, whether an LTA has been created.[622,623] This makes it difficult to collect data on LTAs.

The concept of LTA was seen as one means to overcome the limitations of the 1990 Directive and to pursue its general and specific objectives. However, '[t]he application of this concept has

[619] Under Article 3(5)(a) and (b), LTAs are those where 'at least two different types of travel services purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers' Depending on how the services are booked, there can be two types of LTAs: type (a) where a trader facilitates the separate selection and separate payment of each travel service by travellers on the occasion of a single visit or contact with his point of sale; type (b) where a trader facilitates in a targeted manner, the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

[620] BEUC, Factsheet 'How a revised Package Travel Directive can regain consumers' confidence in the tourism industry', BEUC-X-2022-003 of January 2022 at https://www.beuc.eu/sites/default/files/publications/beuc-x-2022-003_how_a_revised_package_travel_directive_can_regain_consumers_confidence_in_the_tourism_industry.pdf

[621] Insofar as traders considered they were offering LTAs, there is, in principle, insolvency protection under Article 19. However, in light of uncertainties regarding LTAs, such protection will often not be effective.

[622] Several stakeholders outlined issues with discerning whether an LTA is created in practice, this preventing them to also gather relevant data on LTA. For instance, during the CPC meeting (12 May 2022) some 'CPC authorities pointed out that LTAs were rarely or not at all used as the concept was very complicated and consumers did not understand it. Therefore, there were no complaints from consumers. Consequently, as enforcement authorities relied on consumer complaints, it was difficult for them to enforce the PTD provisions on LTAs.'
https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=43477&fromExpertGroups=true

[623] BEUC (2021) *"The Package Travel Directive: BEUC's Position on how to regain consumers' trust in the tourism sector"*: 'it is very difficult, if not impossible, for consumers and enforcement authorities to prove whether a package or an LTA was concluded'. https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf; EU Travel Tech (2021), *"Revision of the Package Travel Directive. EU Travel Tech comments on the Inception Impact Assessment Roadmap"*, 'The difficulty to determine whether an LTA has been formed or not makes it impossible for enforcement authorities to actually enforce the provisions of the Directive in this regard', p. 6-7. https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13117-Package-travel-review-of-EU-rules/F2671051_en. Also targeted interview with national authorities.

arguably raised the highest number of questions' with 'consumer and business stakeholders consider[ing] the LTA definition overly complex and difficult to apply in practice.'[624,625]

According to consumer organisations, 'concerns have also been raised that, with the exception of insolvency protection and certain pre-contractual information requirements, the PTD does not provide for the liability of traders facilitating an LTA for the performance of the relevant services.'[626] Furthermore, the evidence collected indicates that the definition of LTA types (a) and (b) did not contribute to achieving its general objectives.[627]

For both types of LTAs, stakeholders specified that travellers find it difficult to understand what kind of protection they can expect and whether they will benefit from insolvency protection.[628]

For *LTA type (a),* stakeholders indicated that: - the distinction of whether the services were selected jointly (package) or separately (LTA) is difficult to verify for travellers and enforcement authorities, and - traders may use LTAs to avoid the liability of package organisers, according to consumer organisations.[629]

For *LTA type (b),* stakeholders indicated that: - it is often not clear whether the booking of a second travel service was facilitated in a targeted manner, - it is often not clear to traders facilitating a potential LTA whether the traveller made a booking with a second trader within 24 hours. Furthermore, some stakeholders have stated that LTAs type (b) do not exist in the market.[630]

The evaluation identified interpretational and enforcement difficulties that could be grouped in two main categories: lack of clarity in key elements of the definition of LTA types (a) and (b) and unclear delimitation between packages and LTAs.[631]

A consequence of the uncertain boundaries between LTAs and packages is the low awareness of travellers regarding the distinction between these concepts and the associated rights, preventing

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[624] COM(2021) 90 final, p. 5. See also: BEUC (2021) *"The Package Travel Directive: BEUC's Position on how to regain consumers' trust in the tourism sector"*: 'it is very difficult, if not impossible, for consumers and enforcement authorities to prove whether a package or an LTA was concluded'. Available online at: https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf.
Interview with one business association representing small service providers. Two consumer associations (DE, and NL) and a MS authority (IE) interviewed as part of the study also suggested that, given the complexity of LTA definition, it should be completely abolished.

[625] In addition, Recitals 12 and 13, while providing 'some guidance as regards the concept of LTA', did not contribute to improving the effectiveness of the definition of 'LTA'. COM(2021) 90 final, p. 6

[626] COM(2021) 90 final, p. 6

[627] Public consultation (Q26): 67% (276 out of 397) respondents declared that LTA type (a) did not improved the protection for travellers. In particular, 95% of consumer organisations (19 of 20), 81% of public authorities (17 of 21), 61% of companies (140 of 228), and 78% of business associations (38 of 49).
Also, targeted survey: (a) NCAs (regulatory and enforcement) (Q21) and Q(15), Consumer organisations (Q33). Business associations (Q47): presentation of the replies in *Appendix 2 Stakeholder consultation (Synopsis report)* to the Impact Assessment

[628] Public consultation Q28a regarding LTA type b): 79% (15 of 19) consumer organisations stated that traders may use LTAs to avoid the liability of package organisers. Similar trend in replies to Q26a regarding LTA (a): According to 71% (15 of 21) of consumer organisations traders may use LTAs to avoid liability of package organisers.

[629] Public consultation (Q28a): 79% (15 of 19) consumer organisations stated that traders may use LTAs to avoid the liability of package organisers.

[630] Public consultation (Q28a), regarding LTA type (b), 67% (190 out of 284) of respondents indicated that 'It is often not clear whether the booking of a second travel service was facilitated in a targeted manner'.

[631] For detailed explanations on these difficulties, see Appendix VII Linked Travel Arrangements.

them from making informed choices and benefiting from their rights. These findings suggest that, although, intellectually, a distinction can be made between a joint and a separate selection of travel services at one point of sale, such distinction can be difficult in practice and is difficult to verify for travellers and enforcement bodies, giving rise to a grey area.

The overall lack of clarity regarding the LTA concept and uncertainty in distinguishing packages from LTAs in practice was coupled with several observed trends in the package travel market, i.e., change of business practices, and potential circumvention and enforcement issues of the PTD by certain categories of traders, leaving consumers with a lower level of protection.

Certain changes in the market practices of the package travel sector coincided with the entry into force of the PTD in July 2018.[632] There are indications that traders may have reduced their offers in packages,[633] that certain categories of traders have changed their booking processes or paths,[634] and that some traders present their offer as LTAs, when, in fact, they sell packages.[635] Stakeholders also stated that traders may decide to either reduce their offer of packages or change their business model in order not to fall within the obligations applying to packages.[636]

This reduced the effectiveness of the harmonised definitions and the possibility of travellers to make informed choices and benefit from the protection of the PTD thereby reducing the effectiveness of the PTD in achieving its general and specific objectives.

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[632] Targeted survey: (a) Business associations (Q5): The start of the application of the PTD in 2018 impacted the package travel market: according to 36% (8 of 22) 'to a large extent' and according to 32% (7 of 22) 'to some extent'; (b) Consumer organisations (Q2): 42% (5 of 12) 'to a large extent' and 17% (2 of 12) 'to some extent'; (c) NCA (regulatory and enforcement): 19% (5 of 27) 'to a large extent', 33% (9 of 27) 'to a moderate extent', 22% (6 of 27) 'to a small extent'.

[633] Targeted survey: (a) Business associations (Q6): 18% (2 of 11) respondents indicated that traders reduced their offers in packages as a response to the entry into force of the PTD in 2018 'to a large extent', and 27% (3 of 11) of them indicated that this was the case only 'to some extent'; (b) Consumer organisations (Q1): 17% (2 of 12) respondents indicated that this was the case 'to a moderate extent', and 42% (5 of 12) pointed out that this was the case only 'to a small extent'; (c) NCA (regulatory and enforcement): 8% (2 of 26) declared that this was the case 'to a large extent', 12% (3 of 26) 'to a moderate extent', 19% (5 of 26) 'to a small extent', 31% (8 of 26) 'not at all'.

[634] Targeted survey: (a) Business associations (Q6): 17% (2 of 12) respondents indicated that certain categories of traders have changed their booking processes or paths after the entry into force of the PTD in 2018 'to a large extent', and 33% (4 of 12) 'to a small extent'; (b) Consumer organisations (Q1): 42% (5 of 12) 'to a large extent', while the 25% (3 of 12) 'to a small extent'; (c) NCA (regulatory and enforcement) (Q23): 26% (7 of 27) 'to a moderate extent', and 22% (6 of 27) 'to a small extent'. Also, One NCA (regulatory and enforcement) specified that in their Member State, traditional tour operators were, in general, compliant with the information requirements regarding package travel, whereas online travel agents did not take responsibility for the packages they sold and did not fulfil the duties on pre-contractual information and the standard information forms. Workshop with experts from national authorities - Consumer Protection Cooperation (CPC) network 12 May 2022. https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=43477&fromExpertGroups=true

[635] Targeted survey: (a) Business associations (Q6): 25% (3 of 12) respondents indicated that some traders present their offer as linked travel arrangements, when, in fact, they sell packages after the entry into force of the PTD in 2018 'to some extent', and 25% (3 of 12) 'not at all' the case; (b) Consumer organisations (Q1): 33% (4 of 12) 'to a moderate extent', while the 25% (3 of 12) to 'a small extent'; (c) NCA (regulatory and enforcement) (Q23): 24% (6 of 25) 'to a small extent', and 20% (5 of 25) 'not at all'.

[636] Public Consultation (open-ended questions Q5a, Q8a): In their free text replies, several stakeholders pointed out that uncertainties in the definition of 'package' and 'LTA' may lead to traders deciding to change their business models in order not to be considered package organisers. In reply to Q2 about potential changes observed since 2018, 40% of the 468 respondents stated: "Many traders changed their business model/booking processes in order not to be considered as package organisers." 36% selected: "Many traders claim that they are not organising packages, although, in fact they do."

While no precise figures are available, from the reactions of stakeholders during the consultation process, it seems that the PTD has not led to a higher share of packages amongst overall bookings of travel services.

*c) 'Unavoidable and extraordinary circumstances' (Article 3(12))*

The definition of 'unavoidable and extraordinary circumstances' was effective in achieving the general and specific objectives of the Directive.

The concept is used, inter alia, where travellers have the right to cancel packages free of charge 'in the event of unavoidable and extraordinary circumstances' in accordance with Article 12(2). In such cases, travellers are entitled, within 14 days from the termination of the contract to a full refund of any payments made for the package. Challenges with the application of Article 12(2) emerged during the COVID-19 pandemic (see EQ5).

The 1990 Directive used the concept of 'force majeure'[637] to regulate the rights and obligations of the parties in the event of unforeseeable circumstances. The 2015 PTD introduced and defined the notion of 'unavoidable and extraordinary circumstances'.[638]

By introducing related provisions on *termination of a package travel contract* and on the *refund of any payments made for the package* due to the emergence of such circumstances,[639] the 2015 PTD aimed, in particular, to address 'the lack of termination rights for consumers'[640] for reasons of unavoidable and extraordinary circumstances.

Therefore, the definition of 'unavoidable and extraordinary circumstances' is part of the PTD's efforts to pursue its objective of ensuring a high level of consumer protection, by granting travellers the new right to terminate the package travel contract before the start of the trip, free of charge, in those circumstances.

The concept came under spotlight in the context of the COVID-19 pandemic. Disputes between travellers and organisers arose as to whether a certain situation could be considered as unavoidable and extraordinary in the sense of Articles 3(12) and 12(2). It must be noted that Article 12(2) adds to the definition of 'unavoidable and extraordinary circumstances' certain conditions which must be fulfilled in order to terminate a contract without a fee. Therefore, the definition is analysed in the context of Article 12 (2) and (4) under EQ5 further below.

The notion is also used in conjunction with other provisions of the PTD, such as the liability of the organiser for the performance of the contract.[641] In the 1990 Directive, 'there were no limitation to the organiser's liability to provide alternative arrangements' where the traveller was prevented from returning home according to the planned schedule because of 'force majeure'.[642] The 2013 IA concluded that this was 'clearly a burdensome rule for businesses, since such situations' were

[637] In Article 4(6)(b)(ii) of the 1990 Directive, the concept of 'force majeure' is described as 'unusual and unforeseeable circumstances beyond the control of the party by whom it is pleaded, the consequences of which could not have been avoided even if all due care had been exercised'

[638] Article 3(12): 'unavoidable and extraordinary circumstances' means a situation beyond the control of the party who invokes such a situation and the consequences of which could not have been avoided even if all reasonable measures had been taken;' Recital 31 offers several non-exhaustive examples of 'unavoidable and extraordinary circumstances'.

[639] In Article 12(2)

[640] SWD(2013) 263 final, p. 14

[641] Article 13(7)

[642] SWD(2013)0263 final, page 96

beyond the control of organisers.[643] To address this, the 2015 PTD provides that the organiser has to bear the cost of necessary accommodation for a period not exceeding three nights where the traveller's return is impossible as agreed in the package travel contract because of unavoidable and extraordinary circumstances.[644] Also, under the PTD, a trader is not liable for booking errors which are caused by unavoidable and extraordinary circumstances[645] (see EQ6). Finally, the organiser is exempted from compensation for damages (but not from granting a price reduction) if it proves that the lack of conformity is due to unavoidable and extraordinary circumstances.[646]

#### 4.1.1.2. Information requirements

Findings point to limited compliance with the information obligations of traders where they act as organisers or retailers of a package or as facilitators of an LTA. This is likely to be linked to potential issues with the understanding of certain concepts of the PTD, including the definition of LTAs and the borderline between packages and LTAs.

The standard information forms are perceived as highly complex by stakeholders. There is a certain degree of confusion about the information requirements that traders (organisers, retailers, facilitators of LTAs) must provide before a traveller is bound by a contract. Also, travellers do not seem to understand the information in the current forms on LTAs.

This hampered the proper functioning of the package travel market and resulted in a lower level of consumer protection.

The 2013 IA stated that the information requirements and obligations laid down by the 1990 Directive were substantially outdated and therefore caused unnecessary compliance costs for businesses.[647] Also, the 2013 IA concluded that the divergent information requirements across the Member States – some having stricter rules than others – resulted in traders selling packages in several Member States having to check the specific information requirements applicable in the different Member States concerned. Notwithstanding the unjustified costs for businesses, the 2013 IA outlined that the information requirements worked rather well.[648]

To address the challenges identified at the time of 2013 IA, the 2015 PTD introduced enhanced information requirements, while attempting a simplification and standardisation of the overall process to avoid unnecessary costs for businesses. Businesses are obliged '[to] inform travellers whether they are offered a package or linked travel arrangement and on their key rights through standardised information forms' and to 'provide information on the features and characteristics of the package, its price and any additional charges.'[649] The PTD pursued the standardisation and simplification of information requirements in its Article 5 (pre-contractual information for package travel contracts) and Article 19(2)(b) (for linked travel arrangements). Importantly, the list of information requirements is exhaustive, facilitating the cross-border marketing of travel services.

[643] Ibidem.
[644] Article 13(7). Furthermore, the Article provides that '[w]here longer periods are provided for in Union passenger rights legislation applicable to the relevant means of transport for the traveller's return, those periods shall apply.'
[645] Article 21, Liability for booking errors.
[646] Article 14(3)(c)
[647] See section 2.2.
[648] 2013 IA, SWD(2013) 263 final: p. 18 and 74
[649] COM(2021) 90 final, p. 2

*Standard information form for packages (Appendix I PTD)*

73% of the consumer organisations and 47% of national authorities (regulatory and enforcement) indicated that online traders often do not provide this form although, in reality, they offer packages.[650] A large share of consumer organisations (64%) indicated the same situation for off-line traders (face-to-face contacts).[651] However, these statements may also be related to uncertainty or divergent interpretations regarding the distinction between package and LTAs. Consumer organisations and national authorities also stated that where packages were sold via a retailer, travellers did not always understand the role of the organiser and the retailer with regard to payments and refunds.[652]

*Standard information forms for LTAs (Appendix II - LTA type (a) and type (b))*
For both, LTAs types (a) and (b), national authorities and consumer organisations indicated a low degree of traders' compliance with the information requirements. [653,654]

Most consumer organisations pointed out that Appendix II proved difficult for enforcement authorities and consumer organisations to check compliance,[655] and that travellers do not understand their rights in relation to LTAs, including with regard to insolvency protection.[656]

Overall, stakeholders indicate that there is a certain degree of confusion in the sector about the information requirements that traders (organisers, retailers, facilitators of LTAs) must provide for packages, and for LTAs.[657]

Ultimately, findings suggest that there is a lack of effectiveness of the PTD in this respect because: - the information forms are too complex and potentially burdensome for both consumers and traders,[658,659] - there is an overall lack of clarity of the concepts of 'package' and 'linked travel

[650] Targeted surveys (Q30 and Q18): 73% ((8 of 11) consumer organisations and 47% (9 of 21) NCAs (regulatory and enforcement). E.g., they may provide one of the forms in Appendix II or no form at all.
[651] Targeted surveys (Q30): 64% ((7 of 11) consumer organisations
[652] Targeted surveys (Q30 and Q18): 64% (7 of 11) consumer organisations and 71% (15 of 21) NCAs (regulatory and enforcement)
[653] For LTAs type (a) (*single point of sale*), Article 19(2) requires traders to comply with the information requirements set out at Article 19(2)(a) and (b) and Appendix II (Parts A, B, and C).
For LTAs type (b) (*facilitated in a targeted manner*), Article 19(2) requires traders to comply with the information requirements set out at Article 19(2)(a) and (b) and Appendix II (Parts D and E).
[654] Public consultation (Q38): public authorities (54%, 7 of 13) and consumer organisation (56%, 10 of 18) indicated a low degree of compliance with the information requirements for LTAs type (a).
Public consultation (Q39): public authorities (54%, 7 of 13) and consumer organisation (59%, 10 of 17) indicated a low degree of compliance with the information requirements for LTAs type (a).
[655] Targeted survey – consumer organisations (Q31) N = 11: 82% (9) stated this.
[656] Ibidem: N=11, 73% (8) stated this.
[657] Under Article 5 and Appendix I and under Article 19(2) and Appendix II (parts A to E)
[658] Public consultation Q40 addressed to public authorities and consumer organisations: 14 of 17 consumer organisations and 7 of 15 public authorities found that "Travellers do not understand the information forms contained in Appendix II."
Furthermore, the Opinion of the Fit for future (F4F) platform outlined in Suggestion 3: Clarification of pre-contractual information requirements (Art 5) that '[i]n the case of linked travel arrangements, the selection of the right standard information form is complex given the number of options available. Furthermore, they are considered "technical" and difficult to read, especially on mobile devices. https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en
[659] Public consultation, open question Q40a: *A consumer organisation* (LV).

arrangement' affecting the mandatory information requirements.[660] To a significant extent, the identified complexity and burden related to these information forms is related to the substantive rules on which the forms aim to inform travellers.

#### 4.1.1.3. Organisers' liability for the performance of the contract

The introduction of strict rules on **liability for the performance of the contract** was overall effective in ensuring the pursuit of PTD's general and specific objectives. However, there are indications that travellers may not always understand the exact role of different traders (organisers, retailers, and service providers) and, consequently, may not properly identify the trader responsible (acting as organiser) for the performance of the contract and for the refund of prepayments or for compensation.

The 2013 IA pointed out that the wording of the 1990 Directive made it difficult in designating 'one particular party as being responsible',[661] leaving the choice to Member States to decide who should be the liable party. This situation led to divergences across the Member States and determined three main problems: (a) detriment to consumers as 'it can be unclear which party is responsible, especially if the package holiday is purchased cross-border'; (b) liability issues between the traders involved, as 'it can also lead to situations where the organiser and the retailer are blaming each other without any of them taking the responsibility'; (c) an 'obstacle to cross-border trade since legal fragmentation can deter traders from selling travel packages cross-border.'[662]

The 2015 PTD addressed these problems by introducing more specific rules on liability, establishing that 'apart from certain exceptions, the organiser of a package is liable if something goes wrong'[663] irrespective of whether those services are to be performed by the organiser or by any travel service providers. However, the PTD allowed Member States to 'maintain or introduce in their national law provisions under which the retailer is' responsible for the performance of the package' along with the organiser, who remains responsible in any situation.[664,665] Furthermore, travellers have the possibility to contact the organiser via the retailer, the latter being obliged to facilitate the communication between the traveller and the organiser.

[660] Public consultation, open question Q40a: a national authority stressed that the degree in which the mandatory information requirements are used in practice is impossible to assess since LTAs are not visible to them, and they did not come across them in their supervisory activities. The Opinion of the F4F platform, its Suggestion 2: Clarification of scope and simplification of the definitions of package and Linked Travel Arrangement, indicates that: 'First, the definition of LTAs is complex and not easily understandable for all stakeholders. Furthermore, this definition falls short and allows for abuse to consumers' detriment. As a result, as highlighted by the report on the application of the Directive, it is very difficult, if not impossible, for consumers and enforcement authorities to prove whether a package or an LTA was concluded. […] Second, the differentiation between LTA and packages has led to difficulties. In case of LTA contracts, the Directive merely prescribes provisions relating to the pre-contractual information to be given to consumers and insolvency protection provisions. However, contractual obligations resulting from LTA contracts are currently not defined in the text.'

[661] SWD(2013) 263 final, p. 81.

[662] SWD(2013) 263 final, p. 81.

[663] COM(2021) 90 final, p. 2.

[664] Article 13(1) establishes the organiser's responsibility for the performance of the package. The second sub-paragraph of Article 13(1) provides that 'Member States may maintain or introduce in their national law provisions under which the retailer is also responsible for the performance of the package.'

[665] According to desk research conducted by ICF for the study, 11 Member States introduced the responsibility of the retailers within their national system, whereas 16 Member States did not.

However, there are some indications that travellers may not always understand the exact **role of different traders** and, consequently, may not properly identify the trader responsible (acting as organiser) for the performance of the contract and for the refund of pre-payments or for compensation. Businesses (51%) indicated that the current rules are clear enough, while this opinion is shared by a minority of national authorities (19%) and by no consumer organisation. At the same time, national authorities (52%) and consumer organisations (52%) indicated, on the one hand, that traders should be obliged to inform travellers clearly which trader is acting as an organiser, retailer or service provider in connection with a package and about their obligations towards travellers and, on the other hand, that both organisers and retailers should be legally liable for refunds in all Member States (24% national authorities, 48% of consumer organisations).[666]

Furthermore, the Opinion of the Fit for future platform stated that '[i]n light of the COVID-19 crisis, it became clear that there is a notable lack of transparency regarding the role of different parties. […] Consumers risk being confused and sent back and forth between the companies, especially with regard to refunds for cancelled trips.'[667]

Nonetheless, the standard information forms in Appendix I to be provided before the conclusion of a package travel contract clearly identify the party/the parties[668] that is responsible for the performance of the contract, and, under Article 7, the organiser's core obligations have to be identified in the contract.[669]

Under Article 15, the retailer must facilitate the communication between the traveller and the organiser by forwarding travellers' messages to the organiser. In particular in the context of the Covid-19 pandemic, it emerged that there were certain difficulties for travellers to contact/communicate with the organiser/retailer as the organiser/retailer did not reply to e-mails or phone calls or the office was closed.[670] Nevertheless, the evaluation did not detect any effectiveness-related issues concerning Article 15 during 'normal' times.

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[666] Public consultation (Q13): 51% (25 of 49) of business associations and 19% (4 of 21) of public authorities consider that the current rules are clear enough and do not need to be amended, while no consumer organisation share this opinion. According to 52% (11 of 21) of public authorities and 52% (11 of 21) of consumer organisations traders should be obliged to inform travellers clearly which trader is acting as an organiser, retailer or service provider in connection with a package and about their obligations towards travellers. 24% (5 of 21) of public authorities and 48% (10 of 21) of consumer organisation said that both organisers and retailers should be legally liable for refunds in all Member States.

[667] Further explaining that 'When signing a contract, it has been reported that travellers are not always fully aware about who are the organiser, retailer and service provider in relation to a package. This problem even increases when the involved travel companies are similar in name or make part of larger travel agencies with often non-transparent corporate structures.' Suggestion 1: Better information on the identity of the contractual partners and on contact details and better enforcement of rules, https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en

[668] For Member States opting for the parallel liability of retailers under Article 13(1) second sub-paragraph.

[669] The Opinion of the Fit for future platform points out that the problems mentioned above 'have been identified despite the fact that in the mandatory standard information forms […] the party responsible for the performance of the package (i.e., the organiser) has to be identified, and that the contact details of the organiser and retailer, where applicable, have to be provided (Article 5(1)(b)).' Suggestion 1: Better information on the identity of the contractual partners and on contact details and better enforcement of rules, https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en

[670] Public consultation (Q41 addressed to consumer organisations and public authorities): 79% (15 of 19) of public authorities and 95% (20 of 21) of consumer organisations indicated that it was difficult for travellers to

Most national authorities (60%)[671] indicate that where the package was purchased via a retailer, travellers often do not have enough information on whom to contact for a refund and they are often sent from one trader to another without an effective resolution of their claims, this being among the main non-compliance issues identified by them.

It follows that the application of the division of roles and responsibilities between organisers and retailers may have presented certain practical and enforcement issues, in particular in relation to refunds during COVID-19. At least to some extent this could be related to business-to-business issues in assuming the legal responsibilities by organisers and retailers, but also raises the question of whether the information for travellers on the liable parties and contact points could still be improved.

While these factors may, to some extent, hamper the effectiveness of the PTD in achieving its objectives, they could be addressed through smaller improvements in the information of travellers, so that the PTD can be considered as largely effective in this respect.

**EQ2. How has the still growing role of online intermediaries (in a broad sense, including organisers) and other novel business models affected the effectiveness of the PTD?**

While the evidence collected for the evaluation confirmed the importance of online intermediaries and other novel business models for the package travel sector, there are no indications that these actors affected the effectiveness of the PTD. Concerns were voiced that some traders appear to have changed their business model in order not to be considered package organisers. Findings suggest that the potential changes in business practices may be related to the implementation of 'package' and 'LTAs', as presented in the previous section.

Businesses and consumers stressed that the PTD is not well adapted to market trends, including to the online booking and of bookings on mobile devices.[672] Most businesses and consumer organisations pointed out that the new technologies had an impact on the package travel market at least to some extent.[673] According to most national authorities (regulatory and enforcement bodies) certain categories of traders[674] have changed their booking processes and paths and offered LTAs or stand-alone travel services instead of packages at least to some extent.[675]

Furthermore, stakeholders indicated that there have been significant changes in the business practices and related consumer experiences because of the entry into force of the PTD in July

contact/communicate with the organiser/retailer as the organiser/retailer did not reply to e-mails or phone calls or the office was closed.

[671] Targeted survey – NCAs (regulatory and enforcement): 60% (15 of 25) of respondents selected 'Yes' to this point.

[672] Public consultation (Q3): 55% (257 out of 468) respondents indicated that the PTD is not well adapted to market trends, including the constant expansion of sales by online booking and of bookings on mobile devices. More specifically, 72% (36 of 50) of business associations, 55% (157 of 286) of companies, 57% (12 of 21) of consumer organisations, 45% (30 of 66) of EU citizens, 2 of 3 NGOs, 45% (10 of 22) of public authorities. In the targeted survey, most NCAs responsible for insolvency, also pointed out that the expansion of sales by online booking impacted the effectiveness of the PTD *to some extent* (4 of 11 respondents to Q17) or *to a great extent* (2 of 11 respondents to Q17).

[673] Targeted survey: companies/business organisations (Q5) indicated that new technologies had an impact on the package travel sector *to a large extent* (13 of 23) and *to some extent* (6 of 23). According to consumer organisations (Targeted survey for consumer organisations Q34), they impacted the sector *to a large extent* (4 of 10 respondents) and *to some extent* (4 of 10 respondents).

[674] E.g., traditional travel agencies, online travel agencies, carriers, and hotels etc.

[675] See section 4.1.1.1., point b) on Link travel arrangements.

2018. Some traders changed their business model/booking processes to avoid being considered as package organisers or declared they are not organising packages, when, in fact, they do.[676] Moreover, business stakeholders pointed out that the 'strict rules on liability' set out by the PTD where a trader acts as a package organiser 'led to inappropriate results and burdens (bureaucracy, additional costs), which from the point of view of travel agencies and hotel industry are disproportionate.[677]

**EQ3. How effective are the PTD rules on insolvency protection and the national insolvency protection systems based on those rules?**

The PTD rules on insolvency protection have been to a large extent effective in ensuring the achievement of the PTD's objectives, although there were certain challenges in some Member States in relation to the Thomas Cook insolvency and COVID-19.

However, there are different views on whether the rules on refund and repatriation worked well in practice.[678] Notwithstanding the criticism expressed by some stakeholders, there is no evidence that the national insolvency protection systems had general problems in covering refunds and repatriation of travellers. However, there are different practices on whether refund claims and vouchers are covered where a package is cancelled before an organiser becomes insolvent.

The insolvency protection systems differ across the EU, as the PTD leaves it to Member States to determine the details of their systems and such differences could potentially affect the effectiveness of the PTD.

It has been reported that in case of insolvency of an organiser from another Member State, it is difficult for travellers to obtain information on insolvency proceedings and to recover prepayments.[679] Such cross-border issues may also affect the effectiveness of the PTD. At the same time, organiser seem to use mutual recognition of insolvency protection only rarely. Some national authorities called for better communication between the Central Contact Points and more transparency on the securities of organisers in different Member States.[680] However, such issues depend less on the text of the PTD.

[676] See section 4.1.1.1., point b) on Link travel arrangements.

[677] COM (2021)90 final., p.2. Also, public consultation Q2a: open text replies by two *business associations* (AT, FR).

[678] On *rules for refund*: targeted survey for consumer organisation, Q15 and Targeted survey for NCAs (insolvency protection), Q16: 58% (7 of 12) of consumer organisations tend to disagree, while 46% (6 of 13) of NCAs tend to agree that the rules on refunds after an insolvency work effectively. On the *guarantee for repatriation*: Targeted survey – Consumer organisations (Q16): 42% (5 of 12) respondents considered that the guarantee has been effective in practice only to a certain extent; Targeted survey – national authorities competent in insolvency matters (Q2): 75% (9 of 12) of respondents declared they did not experience any enforcement issues.

[679] Replies Member States Central Contact Points on insolvency protection to targeted question from the Commission.

[680] Some Member States complain that their counterparts from other MS do not reply to requests or that they do not have access to registries and details on securities of organisers in other MS. In addition, one national authority dealing with insolvency protection explained that 'Member States are generally unaware of the national law of other Member States or of the insolvency proceedings for the use of the security in other Member States.' Therefore, cooperation between national central contact points is essential to ensure the efficiency of the PTD, especially with increasing cross-border activities. Moreover, a national central contact point signalled that they had no enforcement rights if an organiser established outside the EU/EEA does not want to use the guarantee system available in a Member State.

Finally, the difficult implementation and enforcement of insolvency protection for LTAs and 'click-through packages' hindered the effectiveness of the PTD 'to a very great extent', according to nearly half the respondents from national insolvency authorities.[681]

The 1990 Directive established requirements for organisers and/or retailers to provide security for the refund of pre-payments and repatriation of travellers in the event of insolvency.[682] The 2013 IA identified two main problems:

1. There were numerous diverging methods for providing insolvency protection in the Member States. Also, some Member States offered a wider scope of protection than merely insolvency protection for services included in the package. These were caused by the fact that Member States could establish themselves the requirements for the insolvency protection system. The 2013 IA concluded that 'there seems to be significant differences in the level of consumer protection in the Member States'.
*2.* 'Different national rules regarding the obligation to provide insolvency protection have also resulted in a situation where some retailers or organisers who are trading cross-border had to pay several times for insolvency protection which already had been secured in another Member State.'[683]

To address these problems, the 2015 PTD introduced Articles 17 (Effectiveness and scope of insolvency protection), 18 (Mutual recognition of insolvency protection and administrative cooperation), and 19 (Insolvency protection and information requirements for linked travel arrangements). In this way, the PTD pursued its general and special objectives, by obliging traders to provide guarantees (for refunds and repatriation) in case of bankruptcy and by ensuring mutual recognition of insolvency protection and administrative cooperation.

Effectiveness of insolvency protection (Article 17)
The 2015 PTD provides additional criteria to guide Member States in enhancing the effectiveness and robustness of their national insolvency protection systems. Nevertheless, the PTD still leaves it purposely to Member States to establish the details of their national insolvency protection systems, provided that the security to be arranged meets the criteria of Article 17 and Recitals 39-40.[684]

Therefore, there is a landscape of **diverse insolvency protection systems across the EU**. This does not necessarily imply that travellers are less protected in some Member States than in other ones or that there is a potential distortion of competition in the EU market that could lead companies to establish their businesses in Member States where insolvency protection requirements are less stringent. However, there are indications that these two scenarios may have occurred or could occur in practice.

[681] Targeted survey, Q17
[682] Article 7 of the 1990 Directive reads as follow: *"The organizer and/or retailer party to the contract shall provide sufficient evidence of security for the refund of money paid over and for the repatriation of the consumer in the event of insolvency"*.
[683] 2013 IA, SWD(2013) 263 final: p. 83.
[684] For details on the national insolvency protection systems, see Appendix X. Overview of national insolvency protection systems.

According to most consumer organisations and national authorities[685] travellers in some Member States benefit from a higher level of protection than those in other Member States due to such differences, these differences imply insufficient protection of travellers in some Member States.[686,687] No concrete examples were provided to support this view.

Most public authorities and businesses indicated that they do not know whether the insolvency protection standards for organisers are considerably lower in some Member States than in others.[688] In contrast, most consumer organisations consider that there are Member States with lower insolvency protection standards than others,[689] but without providing examples. Moreover, most consumer organisations and national authorities in charge of insolvency do not know if businesses choose to organise their insolvency protection in Member States with lower protection levels.[690]

A large share of businesses pointed out that the differences among the national protection systems may influence their decisions with regard to the place of business or where to ensure insolvency protection[691] and may lead to unfair competition within the internal market.[692] However, half of the businesses declared that they do not arrange insolvency protection in Member States with less strict/costly insolvency protection requirements, while a minority of them declared that this was the case.[693]

Although stakeholders indicated a need for **further harmonisation** of the insolvency protection systems,[694] there was very little feedback on how the rules should be further harmonised. Some stakeholders also considered that, in principle, the current rules of the PTD are appropriate and should not be changed.[695]

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[685] Targeted survey for consumer organisation, Q15 and Targeted survey for NCAs (insolvency protection), Q16: 58% (7 of 12) consumer organisations agree and 33% (4 of 12) tend to agree while 46% (6 of 13) NCAs agree and 23% (3 of 13) tend to agree,

[686] Public consultation Q17: In total, 28% (125 of 453) of respondents, including 59% of the public authorities (13 of 22) and 86% of consumer organisations (18 of 21).

[687] Similarly, in the targeted survey, a significant share of consumer organisations indicated that travellers are not sufficiently protected in some Member States. NCAs (insolvency) authorities indicated that travellers face problems because of the different insolvency protection rules applying in different Member States. Targeted survey for consumer organisation, Q15: 58% (7 of 12) consumer organisations and Targeted survey for NCAs (insolvency protection), Q16: 58% (7 out of 12)

[688] Public consultation Q16: 64% (289 of 453) of respondents, 67% of the public authorities (14 of 21), 71% of companies (194 of 272) and 43% of business associations (21 of 49).

[689] Public consultation Q16: 28% (125 of 453) of respondents, 67% of the consumer organisations (14 of 21), and 33% of the public authorities (7 of 21).

[690] Targeted survey for consumer organisation, Q15 and Targeted survey for NCAs (insolvency protection), Q16: 58% (7 of 12) of consumer organisations and 54% (7 of 13) of NCAs.

[691] Public consultation (Q17): In total, 49% (221 of 453) of respondents, including 50% of the public authorities (11 of 22), 2 of the 3 NGOs, 52% of consumer organisations (11 of 21), 45% of companies (121 of 270) and 58% of business associations (29 of 50).

[692] Public consultation (Q17): 45% (202 out of 453) of respondents, 32% of the public authorities (7 of 22), 2 of the 3 NGOs, 48% of consumer organisations (10 of 21), 43% of companies (116 of 270) and 66% of business associations (33 of 50).

[693] Targeted survey – Businesses (Q27): 50% (11 of 22) respondents selected 'No', and 9% (2 of 22) respondents 'Yes'.

[694] Public consultation (Q18): 39% (168 out of 434) of respondents, including 41% of the public authorities (9 of 22), 76% of consumer organisations (16 of 21), 34% of companies (85 of 251), and 41% of business associations (21 of 51).

[695] Public consultation (Q18): 27% (117 of 434) respondents.14% of the public authorities (3 of 22), 5% of consumer organisations (1 of 21), 30% of companies (76 of 251), and 33% of business associations (17 of 51).

There is disagreement between consumer organisations and national authorities (insolvency) on whether the **rules on refunds** worked well in practice. Most consumer organisations 'tend to disagree' while public authorities 'tend to agree' on this point.[696] Moreover, most national authorities (regulatory and enforcement) indicated that the rules on insolvency protection of the current PTD contributed to the Directive's achievement of its stated objectives either 'positively' or 'very positively'.[697] However, consumer organisations declared that travellers faced 'often' problems when asking for reimbursement of payments for travel services that were not performed following the insolvency of the organiser.[698]

Regarding the timeliness of the refund claims, national authorities highlighted several factors that may impact the effectiveness of refunds in practice, e.g., the speed with which the guarantor receives the necessary information to settle the claim.[699]

The **guarantee for repatriations**[700] has been effective in practice only to a certain extent according to consumer organisations.[701] In contrast, most national authorities (insolvency) indicated that they did not experience enforcement issues concerning the guarantee for effective repatriation of travellers in their Member State/EEA country.[702] While a significant share of consumer organisations also declared that they 'tend to disagree' to the statement that rules on the repatriations of stranded travellers in case of insolvency worked effectively, national authorities would 'tend to agree' on this aspect.[703]

However, one third of respondents to the 2022 Consumer Conditions Survey are not confident that they are well protected if an organiser goes bankrupt.[704]

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[696] Targeted survey for consumer organisation, Q15 and Targeted survey for NCAs (insolvency protection), Q16: 58% (7 of 12) of consumer organisations tend to disagree, while 46% (6 of 13) of NCAs tend to agree that the rules on refunds after an insolvency work effectively.

[697] Targeted survey – NCAs (regulatory and enforcement) (Q21): 69% (18 of 26) of respondents selected 'positively', and 8% (2 of 26) 'very positively'.

[698] Targeted survey – Consumer organisations (Q17): 58% (7 of 12) respondents selected 'Often', and 33% (4 of 12) 'rarely'.

[699] Targeted survey – NCAs (Insolvency) (Q3): one open text response from HU (12 respondents in total). Similarly, another respondent (EE) stressed that 'the refund of the payments is paid to consumers after the Consumer Protection and Technical Regulatory Authority has gathered the claims of travellers and checked the justifiability of timely submitted claims', thus, suggesting that the timeliness of the refund depends on the speed to which the information are processed by the competent bodies.

[700] In line with Article 17(4)

[701] Targeted survey – Consumer organisations (Q16): 42% (5 out of 12) respondents selected 'Yes'.

[702] Targeted survey – NCAs (insolvency) (Q2): 75% (9 out of 12) of respondents declared that this did not constitute an enforcement issue.

[703] Targeted survey for consumer organisation, Q15 and Targeted survey for NCAs (insolvency protection), Q16: 42% (5 out of 12) of consumer organisations tend to disagree, while 46% (6 out of 13) of NCAs tend to agree that the rules on repatriation of stranded travellers work effectively.

[704] See Consumer Conditions Survey 2022: "*Furthermore, more consumers (38%) do not have the confidence that they are well protected if the package organiser goes bankrupt than the proportion that are confident in such a scenario (32%).*", https://commission.europa.eu/strategy-and-policy/policies/consumers/consumer-protection-policy/key-consumer-data_en#consumer-conditions-surveyhttps://commission.europa.eu/strategy-and-policy/policies/consumers/consumer-protection-policy/key-consumer-data_en#consumer-conditions-survey

Despite such criticism, there is no evidence that the national insolvency protection systems had general problems in covering refunds and the repatriation of travellers.[705]

Furthermore, unlike in previous years, after the transposition of the PTD, the Commission received no complaints pointing to specific problems in specific national systems. One exception was Germany, which, however, changed its insolvency protection system in 2021. Therefore, while there is scope for clarification in the PTD in some respects, the available evidence does not suggest that a radical change is called for. Also, the fact that, in line with the Court's case law, the Member States are liable for damage caused to travellers due to inadequate national insolvency protection systems,[706] is an incentive for operating effective systems. In addition, the Commission can raise specific problems in specific Member States through a structured dialogue with the Member States concerned and/or infringement proceedings, based on complaints or of its own motion.

The COVID-19 crisis brought to light divergent practices in the Member States as regards the coverage by insolvency protection of pending *refund claims* for reimbursements from travellers, including under the form of *vouchers*..[707] The Court of Justice of the European Union is still to rule on the question whether the wording of Article 17(1) regulates such coverage.[708] Consumer organisations and some Member States suggest that the PTD should clearly state that vouchers and refund claims are covered by insolvency protection.[709] Also businesses are largely in favour of such clarification.[710]

Regarding the possibility to provide **continuation of the package** in case of insolvency, around one third of consumer organisations and of national authorities (insolvency) 'tend to agree' that this possibility is used while a large share of respondents indicated that they do not know.[711]

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[705] One Member State declared that since its insolvency protection system has been only recently amended to comply with the PTD, there is still a lack of experience in this respect. Targeted survey – NCAs (Insolvency) Q3: open text responses from DE.

[706] See Case C-6/90 *Francovich and Bonifaci v Italy*; C-48/93 *Brasserie du pêcheur*

[707] The current practice in the Member States varies. Six Member States replying in the consultation process already cover vouchers and/or refund claims by insolvency protection up to a certain extent, while six do not. Targeted survey for national insolvency authorities Q8: 12 responses from AT, CY, DE, DK, EE, FI, HU, HR, LV, PT, SE, and IS. 6 authorities (5 MS and Iceland) replied that the current rules on insolvency protection in place in their country cover vouchers and/or refund claims (for cancelled packages) to a certain extent. In general, this protection has ensued in the context of the COVID-19. In addition, Ireland confirmed during a meeting with the EC that vouchers and refund claims were covered by the rules on insolvency protection. Only Denmark, Estonia and Ireland seem to fully cover vouchers.

[708] The interpretation of Article17(1) in this respect is raised in two pending requests for preliminary rulings from Austria and Belgium in cases C-771/22 HDI Global and C-45/23 MS Amlin Insurance.

[709] Public consultation Q19: In a question where respondents could choose more than one reply, 77% of public authorities (17 of 22), 86% of consumer organisations (18 of 21) and 52% of EU citizens (35 of 67) believe that refund rights against an organiser should be protected in case of insolvency, against 14% of companies and business associations (49 of 359). 73% of public authorities (16 of 22). 95% of consumer organisations (20 of 21) and 45% of EU citizens (30 of 67) believe that vouchers issued by an organiser should be protected in case of insolvency, against 18% of companies and business associations (65 of 359).

[710] Opinion of the Fit for future platform on the PTD, Suggestion 4: Clarification of uncertainties regarding insolvency protection, 'further uncertainties include for example insolvency protection in case of re-bookings, respectively of vouchers and a possible difference between a voucher for a package as opposed to a voucher just stating an amount of money.' https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en

[711] Targeted survey for consumer organisation, Q15 and Targeted survey for NCAs (insolvency protection), Q16: tend to agree 33% (4 out of 12) of consumer organisation, 31% (4 out of 13) of NCAs; do not know: 42% (5 out of 12) of consumer organisation, 38% (5 out of 13) of NCAs.

The difficult implementation and enforcement of insolvency protection for **LTAs** and '**click-through packages**' hindered the effectiveness of the PTD 'to a very great extent', according to nearly half the respondents from national insolvency authorities.[712]

Concerning **cross-border cases**, a substantial percentage of retailers often sells packages from organisers located in another EU or EEA State, and some even from organisers located outside the EU/EEA.[713, 714] It has been reported that in case of insolvency of an organiser from another Member State, it is difficult for travellers to obtain information on insolvency proceedings and to recover prepayments.[715] Such cross-border issues may also affect the effectiveness of the PTD.

The evaluation finds that the **mutual recognition of insolvency protection** as per Article 18 is either rarely or never used in practice[716,] and that, where used, did not present problems for most business stakeholders.[717] However, there are indications that the system is used.[718] Furthermore, different reasons outside of the PTD could explain the – possibly – more limited practical relevance of this mechanism and do not make these provisions ineffective. Some national authorities (insolvency) called for better communication between the Central Contact Points and more transparency on the type of securities organisers had in different Member States.[719] However, such issues seem to depend more on the Member States rather than the text of the PTD.

Regarding **bankruptcies of large organisers,** the bankruptcy in September 2019 of the UK based Thomas Cook Group plc.,[720] has been the only bankruptcy of a large organiser with a cross-border

[712] Targeted survey, Q17

[713] Public consultation Q60: 40% of retailers (33 of 83) indicated to often sell packages from organisers from other countries in the EU/EEA, 41% (34 of 83) to do so rarely and 19% (16 of 83) never to sell such packages. Q61: 16% of retailers (13 of 83) indicated to often sell packages from organisers from outside the EU/EEA, 40% (48 of 83) to do so rarely and 30% (36 of 83) never to sell such packages. It is important to note that companies often indicated several activities from the list that included retailer, organiser, carrier etc..

[714] While no exact data are available concerning the number of such cross-border packages, the available information indicates that around 20,000 cross-border complaints were lodged with the European Consumer Centres in 2022. Most travellers do not lodge complaints, so that the overall number of cross-border packages is likely substantially higher. The European Consumer Centres Network (ECC-Net) Anniversary Report 2005-2020, p. 19, indicates that during the timespan of their existence, on average 17% of the complaints received by ECC-Net concerned package travel. https://commission.europa.eu/system/files/2021-01/ecc_net_anniversary_report_2020-_15_years_of_ecc_net.pdf; The ECC-Net report "ECC-Net in 2022", https://www.eccnet.eu/publications, indicates that 118 142 enquiries have been made during 2022. ECC-Net deals only with cross-border disputes. As on average 17% of complaints concern package travel, one could estimate that the number of cross-border PTD complaints was around 20 085 cases in 2022.

[715] Replies Member States Central Contact Points on insolvency protection to targeted question from the Commission.

[716] Public consultation (Q55): 40% of business associations (14 of 35 – mostly selected answer by them), and 12% of companies (22 of 189) selected 'rarely', and 9% of business associations (3 of 35) and 39% of companies (73 of 189) 'never', Important to point out that the biggest share of companies replied "don't know" 80 of 189).

[717] Public consultation (Q56): 90% of companies (134 of 149) and 47% of business associations (15 of 32). (Q56a) open text reply from a *micro company* (BE).

[718] During the consultation process, several Member States indicated that the system was used (BE, DK, EE, LT, LV, SE).

[719] Some Member States complain that their counterparts from other MS do not reply to requests or that they do not have access to registries and details on securities of organisers in other MS. In addition, one national authority dealing with insolvency protection explained that 'Member States are generally unaware of the national law of other Member States or of the insolvency proceedings for the use of the security in other Member States.' Therefore, cooperation between national central contact points is essential to ensure the efficiency of the PTD, especially with increasing cross-border activities. Moreover, a national central contact point signalled that they had no enforcement rights if an organiser established outside the EU/EEA does not want to use the guarantee system available in a Member State.

[720] One of the world's leading leisure travel groups, with sales of £9.6 billion and around 19 million clients in 2018

impact so far, demonstrating insufficiency of some national insolvency protection systems set up under the PTD.[721]

Nevertheless, after the bankruptcy of Thomas Cook, it appears that, in general, Member States and EEA have not experienced **bankruptcies of large organisers**[722] and/or the **simultaneous bankruptcies of several organisers**,[723] therefore it was difficult for them to assess the effectiveness of their national systems in such circumstances.[724]

During COVID-19, an increase of organisers' insolvencies in the period February/March 2020 - end of 2022, as compared to the period July 2018 - February/March 2020 was noticed in some Member States, but there were usually not major insolvencies, inter alia thanks to State aid.[725]

At least in some Member States, organisers reportedly find it difficult to obtain insolvency protection which covers prepayments and repatriation This is due to insufficient *insurance* solutions in the market or insurance solutions offered only at prohibitive prices, in particular

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The *German* subsidiaries of Thomas Cook left around 140 000 travellers stranded abroad. These were repatriated with the help of the insolvency protection provider. The insolvency protection, however, was insufficient to fully cover the refunds of travellers not yet at their destination, because of a liability cap for insurance companies covering this risk in the previous German transposition. The federal government committed to compensate all affected travellers for the difference between their pre-payments and the amount of refunds received from the insurance company covering the insolvent Thomas Cook companies. At the same time, the German legislation was amended, and the protection of travellers improved. COM(2021) 90 final, p 10. See also Appendix X. Overview of national insolvency protection systems

In *France*, more than 53 000 travellers were affected. Around 11 000 travellers were repatriated, and more than 30 000 customers could spend their holidays with other tour operators. The refund of about 25 000 packages could start only once the insolvency procedure was finalised and all eligible refund files were completed. The total amount to be paid by guarantee funds reached around EUR 42 million in France. COM(2021) 90 final, p 10.

The main *Belgian* insolvency protection body organised the repatriation of 11 000 passengers. In addition, competent authorities dealt with thousands of refund claims. The total amount to be paid by guarantee funds reached EUR 27 million in Belgium. EC, Meeting of the Stakeholder Expert Group to discuss the draft report on the application of the Package Travel and Linked Travel Arrangements Directive (2015/2302), 24 November 2020, https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=23419&fromExpertGroups=false.

*Spain* introduced urgent measures to alleviate the effects of the opening of insolvency proceedings against the corporate group Thomas Cook. Among other things, it created a credit line with Thomas Cook defaults, a State Financial Fund for Tourism Competitiveness, coordination policies in the field of employment between the central state and the Autonomous Regions and other support and information measures for those directly affected by the Thomas Cook crisis.

In *Greece*, the number of foreign stranded tourists was estimated at around 55 000 when Thomas Cook's insolvency was announced in 2019. An operational centre was immediately set up by the Ministry of Tourism and repatriation was accomplished.

[722] Targeted survey – NCAs (Insolvency) (Q3): three open text responses from AT, PT, SK (12 respondents in total).

[723] Targeted survey – NCAs (Insolvency) (Q3): two open text responses from SK and IS (12 respondents in total).

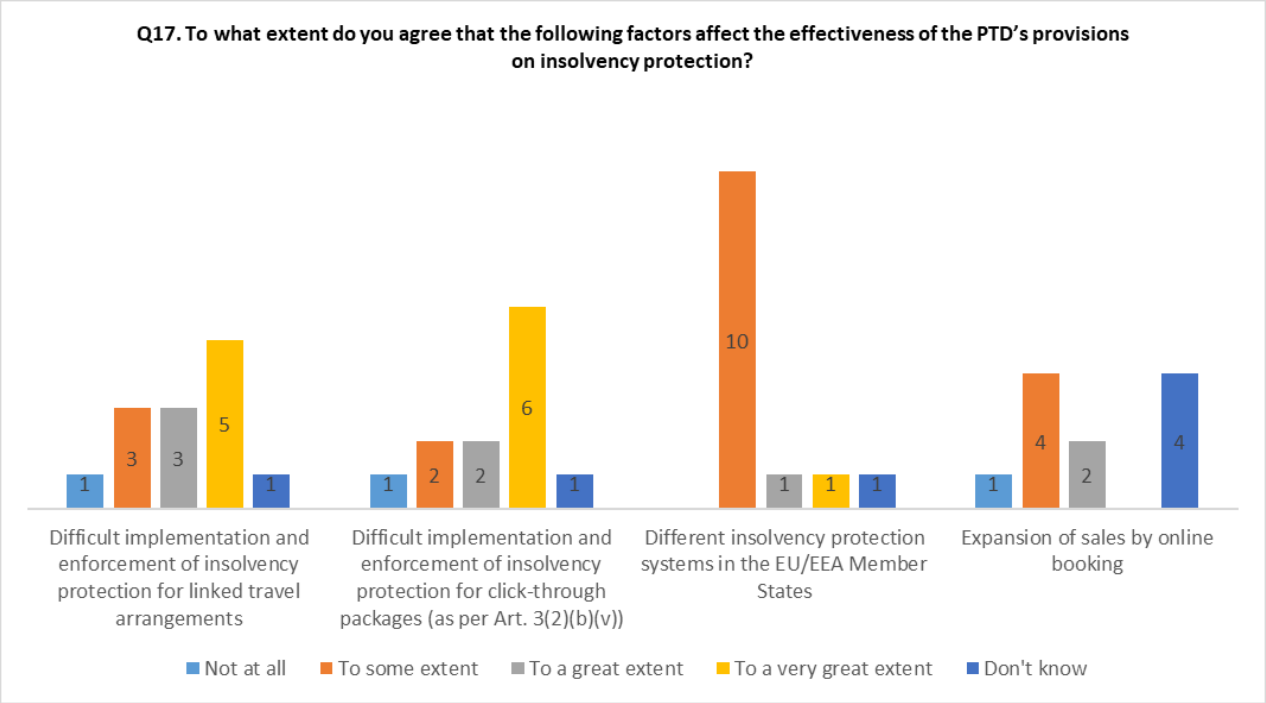
[724] During the consultation process, one national Central Contact Point reported the insolvencies of two national large organisers in 2020 and 2021. However, the Central Contact Point could not provide further data.

[725] E.g., number of insolvencies before Covid-19 vs insolvencies from February/March 2020 to the end of 2022: Poland: 12 vs 18; Lithuania: 1 vs 6; Finland: 3 vs 9, Belgium: 14 vs 35; Cyprus: no insolvency before the COVID-19 until the end of 2022; Czech Republic: 4 vs 27; Denmark: 7 vs 18; Estonia: 0 vs 5; Latvia: 1 vs 3; Sweden 2 vs 46; Iceland: 2 vs 7. Not all Member States offered data on the number of insolvencies.

during a crisis.[726,727] During COVID-19, '[r]elatively few travel guarantee funds and insurance companies provide[ed] insolvency protection. It has been reported that banks were no longer providing security for organisers and that also some of the already relatively few insurance companies offering insolvency protection were pulling out of the market' (e.g., in Austria[728], Belgium[729] and France[730]).[731] In addition, '[r]isks related to pandemics are often excluded from insurance policies, in particular travel cancellation insurance.'[732]

Finally, most of the NCAs (insolvency) (83%) considered that, at least 'to some extent', the **main factor affecting the effectiveness of the PTD's provisions on insolvency protection** was the difference between insolvency protection systems in the EU/EEA Member States/countries. In addition, the difficult implementation and enforcement of insolvency protection for LTAs and 'click-through packages' hindered the effectiveness of PTD 'to a very great extent', according to nearly half of NCAs (insolvency) (see Figure 2 below).

Figure 2. Factors affecting the effectiveness of the PTD's provisions on insolvency protection




*Source: ICF elaboration based on Q17 – Targeted survey NCAs (insolvency) – N=13.*

[726] Targeted survey of national insolvency protection authorities, question 6, showing that the prices of insurance-based solutions have increased.

[727] Section 3 of the Minutes of the Central Contact Points of 10 November 2022, https://ec.europa.eu/transparency/expert-groups-register/screen/meetings/consult?lang=en&meetingId=45937&fromExpertGroups=true

[728] State aid SA.60521 - Austria, https://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_60521

[729] See minutes of the 4th meeting of the PTD stakeholder expert group (24.11.2020), Register of Commission expert groups and other similar entities (europa.eu)

[730] State Aid SA.104022 (2022/N) – France, SA_104022_404A4C87-0000-C6F0-AC80-40B28799B06E_68_1.pdf (europa.eu)

[731] PTD Application Report, p.11, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN

[732] See e.g., the analysis of the Belgian consumer organisation Test Achats published on 22.10.2020, https://www.test-achats.be/argent/assurances-assistance-voyage/dossier/coronavirus.

**To enhance the effectiveness and robustness of the PTD rules on insolvency protection**, stakeholders indicated an overall need for better enforcement of the existing rules[733] and further harmonisation of the insolvency protection systems.

In addition to the above, there are strong demands from consumer organisations, package organisers and other stakeholders for the introduction of **mandatory insolvency protection for standalone tickets**.[734]

Passengers are currently not protected by EU law against the insolvency of carriers if they book standalone tickets, such as flight tickets, even though losses for affected passengers are considerable.[735] Improving the protection of passengers for standalone services would, among others, contribute to fairer burden sharing in the package travel supply chain, where organisers currently have to bear the risk of carriers, such as airlines, going bankrupt.[736]

Under the initiative 'Better protection for passengers and their rights',[737] the Commission is reviewing the passenger rights regulatory framework, which is made up of five regulations, including Regulation (EC) No 261/2004 (the Air Passenger Rights Regulation or APRR).[738]

**EQ4. Is there clarity for traders facilitating an LTA on the insolvency protection cover they have to obtain, and, for consumers, on the fact that they are entitled to insolvency protection, where the conditions under Art. 19 PTD are satisfied?**

[733] Public consultation (Q18): 36% (157 out of 434) of respondents, including 27% of public authorities (6 of 22), 81% of consumer organisations (17 of 21), 33% of companies (83 of 251), and 41% of business associations (21 of 51).

[734] The European Court of Auditors recommended to assess this option. See Special Report No 15/2021 - Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts (2021/C 258/05), Also, BEUC, ECTAA, eutt position papers. Furthermore, in 2015, the Danish Government introduced a mandatory insolvency protection for airlines covering standalone tickets.

[735] It is estimated that more than 5 million passengers in the EU were affected by 91 airline bankruptcies between 2010-2019. Even if this represents only 0,14 per cent of the total number of passengers in the EU, the detriment for those affected is substantial with EUR 1.1 billion. In 2019 alone, 1.8 million passengers were affected. Data from Steer Davies Gleave (2011, 2020)

[736] When dealing with an airline insolvency, organisers, mostly SME-sized, have to finance the costs of the lost tickets towards travellers. https://www.ectaa.org/Uploads/documents/Reforming-Package.pdf, Point 1.1.1, EU Travel Tech position on the revision of the Package Travel Directive, September 2021

[737] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13290-Travel-better-protection-for-passengers-and-their-rights_en

[738] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) - Commission Statement (OJ L 46, 17.2.2004, p. 1).
The APRR regulates the rights of passengers, for instance, where flights are cancelled. This Regulation is complementary to the PTD and the relationship between both instruments is regulated in different provisions of the PTD and the APRR. The review of the APRR comprises the question of refunds for cancelled flights where intermediaries are involved. In addition, the on-going review of the Air Services Regulation (Regulation (EC) No 1008/2008) is relevant for the coherence between air passenger rights and the PTD. The review of the Air Services Regulation covers the financial resilience of carriers, including the possible introduction of insolvency protection for air carriers, possible cancellation rights for air passengers, as well as price transparency. https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13255-Revision-of-the-Air-Services-Regulation_en

The evaluation finds that it is very difficult for travellers to understand their rights in relation to LTAs, including in relation to insolvency protection.[739] Similarly, for traders facilitating an LTA it is often unclear to what extent they need insolvency protection cover.

Travellers do not understand their rights in relation to LTAs, including on insolvency protection.[740] In addition, most travellers,[741] having booked an LTA since 2018, did not read the information explaining they were booking an LTA with the associated warning and their entitlement to insolvency protection.[742]

Businesses and consumers considered that it was unnecessary and misleading in practice to inform consumers that they do not benefit from rights applying to packages under the PTD, where the conditions laid down at Article 19(1) are not met.[743]

In addition, the distinction whether travel services were selected jointly (package) or separately (LTA) was difficult to verify for travellers and enforcement authorities (see EQ1). Evidence gathered for the evaluation suggests that the overall lack of clarity for traders facilitating an LTA on the insolvency protection cover they must obtain and on providing the necessary information to travellers, is also determined by the following factors:

- uncertainties about the formation of LTAs of types (a) and (b) imply that traders do not know whether they are LTA facilitators under the PTD;[744]
- scarce understanding and limited / incorrect practical use of the PTD Appendixes for LTAs.

**EQ5. How effective is the PTD in ensuring effective and efficient reimbursement of pre-payments under Article 12(2) and (4), including in times of crisis?**

This section analyses the effectiveness of the right of travellers to terminate the package travel contract without a termination fee in the event of 'unavoidable and extraordinary circumstances', and to be reimbursed all pre-payments[745] within 14 days after the package travel contract is terminated.[746]

[739] Targeted survey – consumer organisations (Q31): when asked what kind of problems, if any, they had noticed with the standard information forms in Appendix II (LTAs), 73% (8 out of 11) respondents from consumer organisations indicated that '*travellers do not understand their rights in relation to LTAs, including with regard to insolvency protection*'. In addition, in the public consultation, most stakeholders indicated that the rules on LTA type (a) did not effectively contribute to the achievement of PTD's objectives (Q26: 67% (269 of 403) of the respondents, including 81% of the public authorities (17 of 21), 95% of consumer organisations (19 of 20), 61% of companies (140 of 228), and 78% of business associations (38 of 49).

[740] See EQ1, point b) Linked travel arrangements.

[741] Consumer survey (Q7 – N=8,138: "Insofar as you booked a linked travel arrangement (LTA) since 2018, did you read the information explaining to you that you are booking an LTA?): 2,941 indicated Yes and 5,197 No. In the public consultation, 73% of the respondents indicated that travellers find it difficult to understand what kind of protection they can expect in relation to LTAs and whether they will benefit from insolvency protection (Q26a: 200 out of 273 respondents. N=273).

[742] Nevertheless, within the minority of travellers that read the information attached to the booking of an LTA, it appeared that most of them found the information clear. Consumer survey (Q7.1 – N= 2942), 2,586 consumers indicated that the information was clear, while 356 indicated it was not.

[743] Interview with a large consumer organisation and a business association. ICF workshop on the PTD (26 October 2023).

[744] See also EQ 2 and Appendix IX. Package travel during the COVID-19 pandemic.

[745] By 'pre-payments' it is understood advance payments made for packages before the start of the trip. Stakeholders may also use downpayments with the meaning of advance payments made by traveller at the time of booking the package or shortly thereafter.

[746] In accordance with Article 12(2) and (4).

The evaluation found that the effectiveness of reimbursement of pre-payments following the cancellation of a contract due to 'unavoidable and extraordinary circumstances' under Article 12 had been reduced considerably during COVID-19.

Organisers denied or postponed the refunds, either by imposing vouchers/credit notes on travellers, or extending the 14-day deadline for refunds. Reimbursement of travellers was often delayed by more than a month and travellers received a refund only after filing a complaint to an enforcement body. In addition, travellers were referred from one trader to another, as the organiser and the retailer could not agree who was responsible for the refund, thus triggering delay or no reimbursement.

Lack of specific rules on vouchers in the PTD added further uncertainties on travellers. In addition, problems with the reimbursement of pre-payments alongside the different actors in the value chain affected the liquidity of organisers.

Even though actions by traders (or Member States), which are not compatible with the PTD, cannot be attributed to the PTD, it is necessary to consider changes and clarifications in the PTD to ensure a better response to crisis situations and address the detriment that may be caused to travellers.

Prior to the pandemic, it appeared to be difficult for travellers to recover their pre-payments without filing a complaint. Nevertheless, travellers were affected to a lesser extent.

*a) General aspects*

With the introduction of **the right for travellers to terminate of the package travel contract in the event of 'unavoidable and extraordinary circumstances'** and the subsequent refund rights, the 2015 Directive responded to the problems highlighted by the 2013 IA.

The 2013 IA outlined that while 'the organiser is entitled to cancel the package contract without any obligation to pay damages for non-performance of the contract if the cancellation is for reasons of force majeure, solely depending on his assessment of the security situation', the traveller does not have a similar right to cancel in the event of force majeure'. In addition, the 2013 IA clarified that 'there are examples of organisers refusing to cancel the package even though national travel advice advised against travelling to the destination.' In this respect, consumer lawyers were 'arguing that the consumer can have a legitimate need for an option to cancel the contract if there is a force majeure situation in the area of the destination, e.g., warfare or natural disasters, which is likely to have a negative impact on the enjoyment or the safety during the holiday and where the organiser does not take initiative to cancel the package.'[747]

Traditionally, **pre-payments** are the standard payment model in the package travel sector.[748] In case of cancellation of the package, organisers must reimburse travellers.

The PTD does not regulate the amounts of pre-payments package organisers or retailers may accept nor their timing before the start of the package. It follows that there are differences in national laws and practices regarding the receipt of payments made by or on behalf of travellers. The extent of pre-payments depends on different factors, including the share of transport in the package, scheduled flights as opposed to chartered flights, traditional tour operator packages as

[747] SWD(2013) 263 final, Appendix 3 – Specific Problems with the Package Travel Directive: p. 78.
[748] SWD(2013) 263 final, p. 76.

opposed to dynamic packages, but, to some extent, also the Member States concerned. By using travellers' prepayments, certain organisers can purchase large allotments of services in advance, which allows them to keep package prices at a reasonable level.[749] Service providers, especially in the air transport sector, require full payment of the tickets upon booking, allowing them to optimise transport service operations economically and environmentally.

Currently, two Member States have rules on limitation of pre-payments to protect travellers.[750]

Under the PTD, travellers and/or organisers have the right to cancel packages free of charge 'in the event of unavoidable and extraordinary circumstances', travellers being entitled to a full refund of any payments made for the package within 14 days from the termination of the contract.[751] As explained further below, *before the COVID-19 pandemic*, although travellers experienced problems in recovering prepayments in the event of cancellations of package travel contracts due to '"unavoidable and extraordinary circumstances"', the related refunds became problematic for travellers and organisers in particular during the COVID-19 pandemic.

**Before the COVID-19 pandemic**, the termination of the contract under Article 12(2) raised disputes between travellers and organisers only to a moderate/small extent, according to both consumers[752] and businesses.[753] Travellers faced difficulties in recovering their pre-payments, but to a smaller extent than during COVID-19[754] (see also Table 1 further below). For instance, travellers received a full refund within 14 days or at least within one month only 'occasionally' before COVID-19. Moreover, consumers indicate that the refund right under Article 12 was never something they enjoyed automatically as, both before and during COVID-19, travellers 'often' received a refund only after filing a complaint, and 'rarely' without this procedure. There are also

[749] COM(2021) 90 final, p. 12.

[750] In Germany, based on national case-law on unfair contract terms, pre-payments are limited to a 20% down payment at the time of booking, the rest being due not more than 30 days before the beginning of the trip. As an exception to this general rule, pre-payment can be higher than 20% in circumstances where the organiser duly justifies it, due to expenditures present at the moment of the package contract conclusion. BGH – X ZR 71/16, http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=79534&pos=0&anz=1 , BGH - X ZR 85/12, http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&sid=46187c163b972182902743377a1dcc62&nr=70493&pos=0&anz=1
In Austria, legislation provides that customers' pre-payments may be accepted at the earliest eleven months before the agreed end of the trip, and that no more than 20% of the package price can be accepted earlier than 20 days before the start of the trip. However, where unlimited insolvency protection is available, these restrictions do not apply. Package Travel Order (Pauschalreiseverordnung), https://ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20010321

[751] In accordance with Article 12(2) and (5)

[752] Targeted survey - Consumer organisations (Q6): when asked whether, on the justification for terminating a package travel contract *before* COVID-19 pandemic, they observed the scenario in which 'the parties did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' or whether it significantly affected the package in question', 33% (4 of 12) of consumer organisations pointed out that the scenario was observed 'to a moderate extent', while 42% (5 of 12) selected 'to a small extent'.

[753] Targeted survey - Business associations (Q12): when asked whether, on the justification for terminating a package travel contract *before* COVID-19 pandemic, they observed the scenario in which 'the parties did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' or whether it significantly affected the package in question'65% (13 of 20) of respondents replied that this was the case only 'to a small extent' before COVID-19 pandemic.

[754] Interview with a large EU-level consumer organisation.

indications that travellers did not receive any money or received it with considerable delay, irrespective of the period under examination.[755]

The losses experienced by travellers before the COVID-19 period, related to the cancellation of packages can be estimated based on the annual consumer expenditures for package travel. In 2017, these were estimated to reach 58 billion EUR (762 EUR per trip) for trips within the EU and 36 billion EUR (1.756 EUR per trip) for trips to other parts of the world.[756] This corresponds to around 76.1 million trips within the EU and 20.5 million trips to countries outside the EU. Based on the PTD Application Report, around 4.4% of package travellers experienced financial loss,[757] a fact that may have an impact of 5.4 billion EUR on trip values (both within and outside the EU). It is unlikely that the losses suffered by the affected travellers would have amounted to the total value of their trips. Considering that the value of the affected services represents between 10-30%[758] of the total package price, the losses suffered by travellers are estimated at between 540 million to 1.6 billion EUR per year in a normal year.[759]

According to consumer organisations, travellers faced challenges in recovering prepayments, albeit to a lesser extent as during the COVID-19.[760] This suggests that there were certain compliance issues also at ordinary times, but, in the absence of more specific information, it must be assumed that, in terms of the volume of refunds and the extent of the delay of refunds, the problems were much smaller than during the COVID crisis.

**Travellers** faced major difficulties **during the COVID-19 pandemic** related to the **reimbursement of pre-payments** within 14 days where organisers or travellers terminated a package travel contract due to unavoidable and extraordinary circumstances. More specifically,

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[755] N respondents of targeted survey – consumer organisations (Q9), N = 12. Before the COVID-19 pandemic: (1) Travellers received a full refund within 14 days or at least within one month: 33% often 42% occasionally, 8% rarely; (2) Travellers received a refund without filing a complaint 8% often, 25% occasionally, 42% rarely; (3) Travellers received a refund only after filing a complaint 67% often 25% occasionally 0% rarely; (4) Traveller (a) did not receive any money or (b) received it with considerable delay 47% often 33% occasionally 17% rarely

[756] PTD Application Report, p.2, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN

[757] The report states that 11% of all package travel consumers experienced problems, and 40% of these – that is 4.4% of all package travel consumers - experienced financial loss. PTD Application Report, p.3.

[758] The average price of an intra-EU flight is around 90 EUR per passenger (https://www.statista.com/statistics/1125265/average-ticket-price-selected-airlines-europe/), and the average long-haul price is 350 EUR per passenger (https://media.hopper.com/research/consumer-airfare-index-report-march-2022) which, in case of cancellation or delays would make up 12% of average intra-EU and 20% of international package travel price. Noting that the quoted airfares concern individually purchased tickets, it is assumed that airfares included in package trips may be more economical. Moreover, for the calculation of consumer losses, both flights (outgoing and return) would not necessarily be impacted. In terms of consumer losses related to accommodation services, an average hotel price per night in the EU between 100-200 EUR is considered. Consequently, losses resulting from unsatisfactory accommodation can impact 13-26% of package travel prices. Similarly, to airfare however, we estimate that accommodation is sold at a discount for package trips and consider that not the entirety of costs may be linked to consumer losses.

[759] In addition, based on an alternative calculation, ICF estimated the yearly consumer detriment at between EUR 126 million and EUR 378 million. ICF study (for full reference see footnote11), not yet published, page 122-123

[760] Targeted survey for consumer organisations: According to replies to Q6, travellers received a full refund within 14 days or at least within one month only 'occasionally' before COVID-19. Moreover, travellers 'often' received a refund only after filing a complaint, and 'rarely' without this procedure. National consumer authorities also pointed out that challenges regarding reimbursements (e.g., agreement of parties on whether the situation qualified as 'unavoidable and extraordinary circumstances' or significantly affected the package in question) that were observed 'to a small extent' before COVID-19 turned into significant ones during the pandemic. (See Appendix 8. Evaluation, EQ 5.)

organisers denied or postponed the refunds, usually by imposing vouchers/credit notes on travellers,[761] the reimbursement was delayed by more than a month,[762] travellers received a voucher and used it for alternative trips or received their money back in the end,[763] received a refund only after filing a complaint to an enforcement body,[764] received vouchers but have not used them for alternative trips until the expiration date and are still waiting for their money.[765]

Many consumer organisations indicated experiencing further situations, namely: the trader refused to reimburse money for expired vouchers arguing that it had no further obligations towards travellers,[766] the organiser and the retailer could not agree which one of them was responsible for the refund, triggering delay or no reimbursement,[767] and many travellers are still waiting for their money.[768]

While it is not possible to arrive at a robust estimate of the value or number of cancelled *packages*, the data available for *flights* can give an indication on the magnitude of the cancellation also for packages. 'The total reduction in passenger numbers was estimated at 346 million for the first six months of the year of 2020 by Eurostat, and at 800 million, or 67 %, for the full year by the International Civil Aviation Organisation (ICAO).'[769] According to the estimation of the European Court of Auditors (ECA), roughly 50 million tickets were cancelled between March and May 2020.

In the Impact Assessment (IA) accompanying a proposal for a Regulation for common rules for enforcement of passenger rights, passenger rights for multimodal journeys, and reimbursements of airline tickets bought via an intermediary,[770] it is assumed that the percentage of tickets in terms of

[761] Public consultation, Q41: 18 of 21 (86%) of consumer organisations and 11 of 19 (58%) public authorities. And see BEUC position papers submitted to the Inception Impact Assessment and to the public consultation that describes issues around imposition of vouchers.
[762] Public consultation (Q44): 52% (11 of 21) of consumer organisations and 74% (14 of 19) of public authorities. In Q36, a similar question addressed to individuals using packages, this scenario was indicated by 20% (10 of 49) of EU citizens. (Non-EU citizens did not reply to this question). Also, 85% (23 of 27) of national authorities indicated that refunds of prepayments were not provided within 14 days. Targeted survey for NCAs (regulatory and enforcement), Q1.
[763] Public consultation (Q44): 57% (12 of 21) of consumer organisations and 63% (12 out of 19) of public authorities. In Q36, a similar question addressed to individuals using travel services, this scenario was indicated by 22% (11 of 49) of EU citizens. (Non-EU citizens did not reply to this question).
[764] Public consultation (Q44): 81% (17 of 21) of consumer organisations and 53% (10 of 19) of public authorities. In Q36, a similar question addressed to individuals using travel services, this scenario was indicated by 14% (7 of 49) of EU citizens.
[765] Public consultation (Q44): 81% (17 of 21) of consumer organisations and 42% (8 of 19) of public authorities. In Q36, a similar question addressed to individuals using travel services, this scenario was indicated by 6% (3 of 49) of EU citizens.
[766] Public consultation (Q44): 57% (12 of 21) consumer organisations and 11% (2 out of 19) public authorities.
[767] Public consultation (Q44): 67% (14 of 21) consumer organisations and 32% (6 out of 19) public authorities.
[768] Public consultation (Q44): 52% (11 of 21) consumer organisations and 11% (2 out of 19) public authorities.
[769] European Court of Auditors, Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf, p13
[770] SWD ….(2023), page …., Table **Error! Main Document Only.**: Airline ticket payment flows – to be insert once MOVE colleagues have a stable version

number of passengers[771,772] of scheduled and charter flights as part of package travel would be 1.5-3%[773] each.

Between March and May 2020, at the beginning of COVID-19, the cancellation of approx. 50 million flight tickets,[774] triggered a decrease of flights of around 76% and a decrease of around 75% in expenditure on package trips in 2020 as compared to 2019.[775] Based on this data, and using the abovementioned estimate that the value of the affected flights included in packages would represent between 10-30% of the total package price, the losses could range from 500-1500 million during the first three months of the pandemic.[776]

By December 2020, thousands of travellers had not yet received a refund in money for cancelled holidays, according to Bureau Européen des Unions de Consommateurs (BEUC).[777,778,779]

Therefore, the problems faced by travellers in recovering prepayments caused loss in consumer welfare, including by impeding travellers to dispose freely of the prepaid amount, and personal detriment (e.g., time loss, hassle and other psychological detriment).

[771] Based on evidence provided by IATA and estimates in the context of the impact assessment support study (based on evidence gathered by a group of 5 airlines, which shows that approximately 36% of all passengers book via intermediary ticket vendors).

[772] Comparing the information provided by air carriers on the share of tickets sold via intermediary ticket vendors and the information provided by IATA on the amount (in euros) of ticket flows in ticket, it has been assumed that the share of tickets sold via intermediary ticket vendors is more or less proportional to the share of tickets sold (in paid amounts, as provided by IATA). The share of tickets sold via intermediary ticket vendors is considered proportional to the share of passengers booking via intermediary ticket vendors.

[773] Given the lack of clarity on the share of tickets, it has been assumed, using a conservative approach, that between 25% and 75% of ticket flows may fall within the scope of the Passenger Rights Regulation. The mid-point of this range has been considered, i.e., 3%. In addition, it has been considered that 3% of ticket flows are under the Package Travel Directive.

[774] European Court of Auditors, Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf, p13

[775] According to Eurostat, in EU-27, there was a total of 1146,44 million flights in 2019, 277 million flights in 2020 and 374 million flights in 2021.

Based on Eurostat for 2014, 2017, 2020, 2021, interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 and on firm level data (ORBIS) as well as on the European Commission 2023 Spring Economic Forecast, it resulted that the total expenditure for package trips was EUR 110.709 million in 2019, EUR 27.627 million in 2020, EUR 35.879 million in 2021, EUR 76.673 million in 2022 and EUR 110.709 million in 2023, the same level of 2019.

Based on Eurostat for 2014, 2017, 2020, 2021, interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 and on firm level data (ORBIS) as well as on the European Commission 2023 Spring Economic Forecast, it resulted that the average package price in EU-27, for trips within the EU and to the rest of the world, was of EUR 1.202 million in 2017, EUR 1.239 million in 2020, EUR 1.274 million in 2021, EUR 1.383 million in 2022 and EUR 1.475 million in 2023.

[776] An estimation of 4.029.660 cancelled packages during March – May 2020.

[777] BEUC ('Bureau Européen des Unions de Consommateurs') is the umbrella group for 45 independent consumer organisations from 31 countries. BEUC represents the national consumer organisations to the EU institutions and defend the interests of European consumers.

[778] BEUC's Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers' of 14.12.2020, https://www.beuc.eu/publications/travel-voucher-chaos-continues-several-eu-countries-and-travel-industry-still-flouting/html

[779] 'No less than half of European households lost money as a result of the crisis' during the pandemic. Furthermore, there was 'tremendous increase in consumer complaints about travel issues', according to BEUC https://www.beuc.eu/sites/default/files/publications/beuc-x-2020-030_position_on_travelers_rights_in_the_covid-19_context.pdf, p 1, incl. footnote 1

For **organisers**, refund rights triggered by Article 12 proved burdensome. Organisers had, at least 'to a moderate extent', to take out loans to cover the costs of refunds to travellers.[780] In several, but not all Member States, there were aid schemes for package organisers and other travel companies.[781] Since the number of bookings also collapsed, companies were unable to generate new sources of revenue to execute refunds, which had an impact on their liquidity.[782] At the same time, if service providers became insolvent in the meanwhile, organisers might not receive refunds at all.

Article 22 of the PTD[783] refers to a right of redress of organisers against third parties. However, this provision does not specify that service providers are obliged to make a refund to organisers within a given period where a service or a package is cancelled.

The losses experienced by organisers during the COVID-19 period (2020 and 2021 combined) could be estimated at 15 billion EUR based on the macro-estimate of total reduction in value.[784] However, the loss continued after the immediate COVID-19 years and could arrive at up to 25 billion EUR until the end of 2023. Nevertheless, in order to arrive at a net loss figure, state support measures and lower operating costs (e.g., fuel not used) would need to be deducted. Based on a rough gap analysis, support measures could have cushioned up to 40% of immediate crisis losses suffered by organisers.

Several Member States adopted **temporary rules deviating from the PTD**, 15 of them giving package organisers the possibility to significantly extend the periods for reimbursements or make vouchers mandatory for travellers. In July 2020, the Commission opened infringement proceedings against 11 Member States.[785] The infringement proceedings were closed after the relevant Member States repealed the legislation deviating from the PTD or after the relevant measures had expired. On 8 June 2023, the Court of Justice of the European Union (CJEU) confirmed the Commission's interpretation in the one remaining infringement case and in a preliminary ruling.[786] The CJEU confirmed that the PTD aims at full harmonisation[787] and that the term 'refund' in the PTD implies a refund consisting in an amount of money which travellers can dispose of freely and does not include the idea of a voucher.[788] The CJEU concluded that the Member States were not allowed to adopt national legislation releasing organisers temporarily

[780] N respondents of targeted survey – consumers (Q9) = 22. 38% To a large extent, To a moderate extent 19%. To be noted that 43% of respondents replied that they did not know whether organisers had to take out loans to cover the costs of refunds to travellers.
[781] See Appendix IX. The package travel during the COVID-19 pandemic.
[782] Ibidem.
[783] Article 22 PTD reads as follows: 'In cases where an organiser or, in accordance with the second subparagraph of Article 13(1) or Article 20, a retailer pays compensation, grants price reduction or meets the other obligations incumbent on him under this Directive, Member States shall ensure that the organiser or retailer has the right to seek redress from any third parties which contributed to the event triggering compensation, price reduction or other obligations.'
[784] Based on data provided by Eurostat and on the European Commission 2023 Spring Economic Forecast
[785] See Commission's press communications of 2 July and 30 October 2020 (under point 5 – Justice): https://ec.europa.eu/commission/presscorner/detail/en/INF_20_1212 and https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687
[786] Case C-407/21, ECLI:EU:C:2023:449, CURIA - List of results (europa.eu) and Case C-540/21, ECLI:EU:C:2023:450, CURIA - List of results (europa.eu)
[787] Case C-407/21, ECLI:EU:C:2023:449, paragraph 59, Case C-540/21, ECLI:EU:C:2023:450, paragraph 23.
[788] Case C-407/21, ECLI:EU:C:2023:449, paragraphs 30 and 33 and Case C-540/21, ECLI:EU:C:2023:450, paragraph 69

from the obligation to reimburse prepayments to travellers within 14 days of the termination of the contract.

Overall, these national measures and the infringement cases demonstrate that the rules on refunds of prepayments of the PTD were often not respected during COVID-19. This is also confirmed by the ECA report of 29 June 2021.[789]

Termination of the contract under Article 12(2) gave rise to numerous **disputes** between businesses[790] and travellers.[791] The main causes of the disputes were: - different interpretations regarding the justification for the termination of the contract under Article 12(2) corroborated with Article 3(12), - the variety of travel warnings/advice issued by the Member States, - difficulties in contacting the organiser/retailer.[792,793]

In response to these problems, consumer organisations called for more clarity on the appropriate time for cancellation of the contract due to 'unavoidable and extraordinary circumstances' as well as on the relevance, evidence, and legal value of official travel warnings.[794]

Table 1. Main scenarios detected by national authorities on refund rights due to 'unavoidable and extraordinary circumstances' under Article 12 of the current PTD

| Scenarios | Extent | Before COVID-19 | Since COVID-19 |
|---|---|---|---|
| The parties did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' or whether it significantly affected the package in question | To a large extent | 7% | 42% |
| | To a moderate extent | 11% | 27% |
| | To a small extent | 56% | 15% |
| Refunds of pre-payments were not provided within 14 days. | To a large extent | 11% | 74% |
| | To a moderate extent | 11% | 11% |
| | To a small extent | 56% | 4% |
| Justification of a termination fee | To a large extent | 7% | 27% |
| | To a moderate extent | 22% | 27% |
| | To a small extent | 37% | 15% |
| The amount of the termination fee | To a large extent | 11% | 27% |

[789] Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf

[790] Targeted survey - Business associations (Q12): when asked whether, on the justification for terminating a package travel contract *since* COVID-19 pandemic, they observed the scenario in which 'the parties did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' or whether it significantly affected the package in question', 55% (12 of 20) respondents replied that this was the case 'to a large extent'.

[791] Targeted survey - Consumer organisations (Q6): when asked whether, on the justification for terminating a package travel contract *since* COVID-19 pandemic, they observed the scenario in which 'the parties did not agree on whether the situation qualified as 'unavoidable and extraordinary circumstances' or whether it significantly affected the package in question', 83% (10 of 12) respondents from consumer organisations pointed out that the scenario was observed 'to a large extent'.

[792] Public consultation (Q35): 31% (18 of 58) of EU citizens indicated that the organiser/retailer accepted the cancellation only where there was a travel warning advising against the trip; 38% (22 of 58) indicated that it was difficult to contact/communicate with the organiser/retailer as the organiser/retailer did not reply to e-mails or phone calls or the office was closed; 52% (30 of 58) pointed to the great disparity of the official travel advice and health-related decisions and their rapid change in my country, the destination country or transit countries

[793] Aspects related to official travel warnings and different interpretation issues of Article 12(2) and Article 3(12) are further addressed in Appendix IX. Package travel during the COVID-19 pandemic.

[794] Consumer organisations targeted survey, free text replies to Q. 7 – Open question, n = 10.

| | | | |
|---|---|---|---|
| | To a moderate extent | 22% | 19% |
| | To a small extent | 37% | 23% |

*Source: ICF targeted survey – NCAs (regulatory and enforcement) (Q1[795]).*

*b) Vouchers*

There are currently no specific rules on the use of vouchers in the Directive. For organisers, a rapid temporary solution to the difficulties posed by COVID-19 was to issue vouchers instead of reimbursing travellers. Businesses and national authorities (regulatory and enforcement) confirmed that vouchers were rarely used before COVID-19 and frequently used since its outbreak (see Table 2 below).

Table 2 Frequency with which package organisers used vouchers as a refund in case of termination of a package travel contract before its start, in case of 'unavoidable and extraordinary circumstances' under Article 12 of the current PTD.

| Frequency | Business | | NCAs (regulatory and enforcement) | |
|---|---|---|---|---|
| | Before COVID-19 | Since the outbreak of COVID-19 | Before COVID-19 | Since the outbreak of COVID-19 |
| Frequently | 20% | 72% | 0% | 100% |
| Rarely | 44% | 4% | 38% | 0% |
| Never | 12% | 0% | 10% | 0% |

*Source: ICF targeted survey – business (Q16)[796], and NCAs (regulatory and enforcement (Q5).[797]*

Even if vouchers were frequently used during COVID-19, businesses acknowledged that travellers were explicitly informed that they were not obliged to accept vouchers only to a small extent and, when informed, travellers accepted vouchers to a moderate extent.[798] Travellers stated that they were 'rarely' explicitly informed that they were not legally obliged to accept a voucher (see Table 3 below).

Table 3 Main scenarios reported by consumers relating to voucher and refund rights due to 'unavoidable and extraordinary circumstances' under Article 12 of the current PTD

| Scenarios | Extent | Period | |
|---|---|---|---|
| | | Before COVID-19 | During COVID-19 |
| Travellers were explicitly informed that they were not legally obliged to accept a voucher | Often | N/A | 0% |
| | Occasionally | N/A | 18% |
| | Rarely | N/A | 82% |
| Travellers accepted vouchers that were not compulsory under national provisions, even if they knew they were not legally obliged to accept them | Often | 8% | 58% |
| | Occasionally | 25% | 33% |
| | Rarely | 33% | 8% |

[795] Targeted survey – NCAs (regulatory and enforcement) (Q1) = 28. From this number the indicated percentages of the table have been calculated.

[796] N respondents of targeted survey – businesses (Q16) = 25. From this number the indicated percentages of the table have been calculated.

[797] N respondents of targeted survey – NCAs (regulatory and enforcement) (Q5) = 24. From this number the indicated percentages of the table have been calculated

[798] Targeted survey – businesses (Q15) = 22. Travellers were explicitly informed that they were not legally obliged to accept a voucher: 32% to a small extent, 23% to a moderate extent, 23% to a large extent. Travellers accepted vouchers that were not compulsory under national provisions: 55% to a moderate extent, 27% to a large extent, 0% to a small extent

*Source: ICF targeted survey – consumer (Q9).*[799]

According to 66% of EU citizens, 83% of public authorities and 76% of consumer organisations, the PTD should specify that organisers may issue vouchers instead of a refund within 14 days, provided that a) travellers agree and b) there is a guarantee that travellers will receive their money back if the voucher is not used within its validity period, and c) that vouchers have to be protected against the insolvency of the issuer. 50% of companies and business associations agreed with this statement, while 47% disagreed.[800, 801]

*c) Problems with the reimbursement of pre-payments alongside the different actors in the value chain*

As already mentioned, the organiser of a package is liable for the performance of the contract, including for refunds, irrespective of whether retailers are involved or whether those services are to be performed by the organiser or by any travel service providers. However, in some Member States, retailers are also responsible. Furthermore, under the PTD, travellers have the possibility to contact the organiser via the retailer, the latter being obliged to facilitate the communication between the traveller and the organiser. [802]

The PTD establishes clear legal responsibilities for organisers and retailers on their information obligations towards travellers and on performance of the contract, including on refunds. However, circumvention of these rules or practical issues may appear in practice.

The dysfunctionalities in the business-to-business (B2B) relationships proved to have a negative impact on travellers, triggering two main problems regarding refunds of pre-payments: (i) referral of travellers from organisers to retailers and vice-versa, making it very difficult for travellers to obtain their rights and (ii) delay in reimbursing travellers due to the difficulties that organisers faced in recovering the pre-payments from service providers, e.g., airlines and hotels.[803]

Most businesses pointed out that they would welcome a new EU rule that requires service providers to reimburse organisers where the cancellation is justified under the PTD, within a specific time-limit,[804] shorter than 14 days.[805]

**EQ6. How effective has the liability for booking errors introduced in Article 21 been in practice?**

The evaluation findings do not allow for a conclusive assessment of the effectiveness of the liability of booking errors introduced in Article 21. Consulted stakeholders were overall not able to indicate neither the relevance of Article 21 in practice, nor to gather sufficient evaluative

[799] N respondents of targeted survey – consumers (Q9) = 12. From this number the indicated percentages of the table have been calculated.
[800] Public consultation (Q12): 66% (44 out of 67) of EU citizens, 83% (19 out of 23) of public authorities, and 76% (16 out of 21) of consumer organisations. 50% (182 out of 367) of business respondents (aggregated companies and business associations) agreed with this statement, while 47% (172 out of 367) them disagreed.
[801] Interview conducted by ICF: a Norwegian consumer organisation explained that vouchers may not represent a good solution, especially concerning their expiration date, as consumers may decide not to book another trip within that set timeframe.
[802] See EQ1, sub-section *Organisers' liability for the performance of the contract*.
[803] See Appendix IX. The package travel during the COVID-19 pandemic.
[804] Targeted survey – businesses (Q22): 65% (15 out of 23) of the respondents.
[805] Targeted survey – businesses (Q23): 60% (9 out of 15) of the respondents.

evidence in this respect.[806] The paucity of available data on the liability for booking errors laid down by Article 21 may also derive from the fact that the entry into force of the PTD (July 2018) is still too recent to allow stakeholders to gather sufficient information.

### 4.1.2. EFFICIENCY

The analysis of efficiency covers administrative and adjustments costs, assessing the benefit to cost ratio that various stakeholder groups encountered in relation to the implementation of the PTD. Moreover, the analysis explores the potential for simplification and burden reduction.

During the consultation, costs and burden for stakeholders deriving from the PTD were identified. These include difficulties in understanding, applying and enforcing certain concepts of the Directive, e.g., LTAs, limited awareness of certain rights and/or difficult implementation, e.g., cancellation rights. However, the comparison between the situation emerging from the 2013 IA and the current situation, shows that the 2015 PTD has brought benefits to all stakeholders. Many stakeholders consider that these benefits have been achieved at a reasonable cost. Nevertheless, the analysis also shows that there is room for improvement and simplification, in order to improve the cost benefit ratio and make the PTD more efficient.

**EQ7. What are the costs and the benefits (monetary and non-monetary) of the PTD for the different stakeholders involved (Member States authorities, businesses, consumers)?**

The costs for public administrations (estimated at EUR 305.400 for the period 2018-2022) include one-off costs to transpose the Directive, train the staff, purchase equipment, costs with personnel and recurring costs for enforcement activities. During the same period, the costs for traders (organisers, retailers, facilitators of LTAs) include one-off costs (adaptation of systems, training of staff) and recurrent costs related to implementation of the requirements on pre-contractual and contractual information, liability for the performance of the contract, assistance offered to travellers in difficulty and insolvency protection. However, a quantitative estimation of the costs was not possible given the lack of data.

The qualitative benefits of the Directive relate to the improved cooperation between national competent authorities, better assistance to travellers and businesses. Also, the PTD improved harmonisation, enhanced transparency and strengthened legal certainty for both travellers and traders. Benefits to businesses arise from further harmonisation of the rules and reduction of fragmentation of the internal market. Travellers benefit from more rights, such as termination of the package before its start, as well as from improved security for refunds and repatriation in the event of the insolvency of organisers.

**Member State Authorities**

Regulatory, including administrative costs

The main costs categories identified by national competent authorities are related to: enforcement, transposition, staff training, equipment purchase and other costs. According to national authorities, among the measures which were most costly and burdensome to monitor and enforce, were the new stricter rules on insolvency protection.[807] Enforcement and monitoring costs in relation to the

[806] Nevertheless, available evidence points to the fact that Article 21 has been largely contributing to the PTD's achievement of its stated objectives. At least according to the majority NCAs (regulatory and enforcement bodies) surveyed as part of the evaluation Targeted survey – NCAs (regulatory and enforcement) (Q21): 76% (19 out of 26) selected 'positively', and 8% (2 out of 26) 'very positively'.

[807] Targeted survey – national competent authorities (regulatory and enforcement), Q25 open question = 15.

PTD may include costs associated with internal legal procedures and are generally considered to be within the day-to-day operative tasks of the relevant public authorities. Additional enforcement costs can include monitoring and reporting of compliance as well as information campaigns, training programs etc.

The following table summarises the median data on costs based on the information provided.

*Table 4 Average[808] recurring and one-off costs for national authorities*

| Cost categories | Type of cost | Costs for enforcement authorities | Costs for insolvency protection authorities |
|---|---|---|---|
| Enforcement | Recurring | 116.000 EUR | NA |
| Transposition | One-off | 97.000 EUR | 5.500 EUR |
| Staff training | One-off | 27.000 EUR | 925 EUR |
| Equipment purchase | One-off | 34.000 EUR | NA |
| Other costs | One-off | 25.000 EUR | NA[809] |

Apart from equipment purchase, personnel costs are the main element in the remaining category (here labelled as "other costs") Under the category of other costs, regulatory and enforcement bodies monetised the times employees spent with guidance to consumers, internal consultation, explanation of the norms, EU-requests, contact point costs.

Benefits

Enforcement national authorities identified improved collaboration between them and other public authorities as well as improved assistance to travellers. Some national authorities with responsibilities on insolvency protection pointed out that cooperation between Central Contact Points needed to be improved.

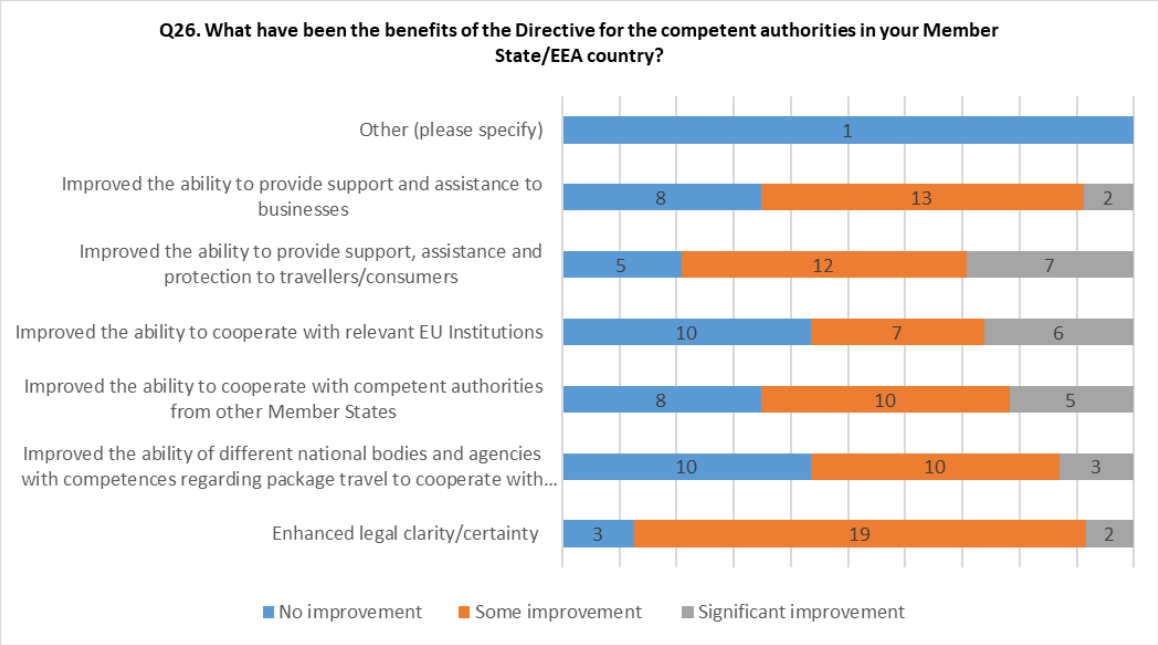
In terms of the internal market, national authorities considered that the PTD improved harmonisation, enhanced transparency and strengthened legal certainty for both travellers and traders in cross-border transactions.[810]

National authorities also reported some improvement due to enhanced legal clarity and in the ability to support travellers and assist businesses (see Figure 3 below).

[808] Data sourced from the targeted surveys reflecting median average of the reported amounts. ICF study, section 3, sub-section 3.6.3.2

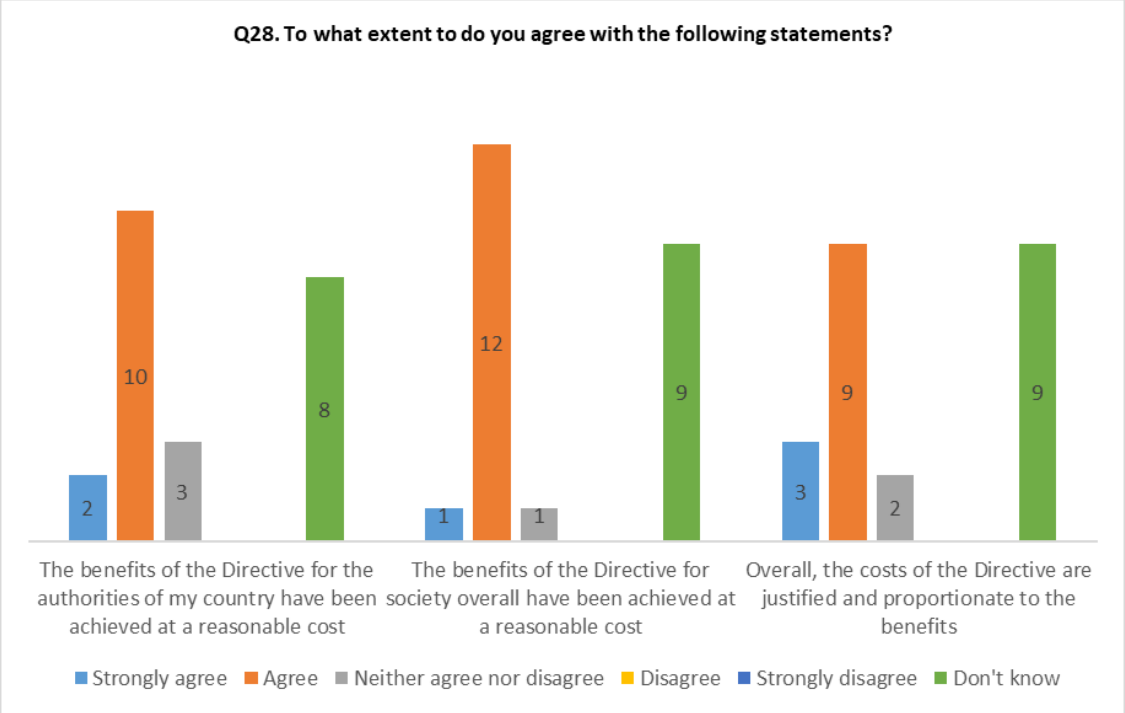
[809] Costs of EUR 300 million were indicated by an authority, however those costs do not seem representative for all national authorities and therefore have not been included in the table.

[810] Targeted survey – businesses (Q56): 16 out of 22. Benefits to businesses also arise from further harmonisation of the rules and reduction of fragmentation of the internal market. ICF study, section 3, sub-section 3.6.3.2




*Source: ICF, targeted survey, national authorities (regulatory and enforcement).*[811]

Most national authorities agreed that the benefits of the PTD for the authorities and for the society overall have been achieved at a reasonable cost, as well as that, overall, the costs caused by the Directive are justified and proportionate to the benefits (see the Figure 4 below).




*Source: ICF, based on answers received to the NCAs Regulatory and Enforcement targeted survey.* [812]

## Businesses

[811] NCAs Regulatory and Enforcement survey, Q. 26 –N = 24, 69% (11 out of 24) of respondents.

[812] NCAs Regulatory and Enforcement survey, Q28 – N = 23. To add F4F opinion, PTD expert group, position papers.

Costs of PTD compliance, including administrative burden

In response to some of the key problems faced by businesses as identified in the 2013 IA,[813] the 2015 PTD introduced standard information forms to be provided to travellers. At the same time, the obligation for traders to inform consumers about their rights was, on the one hand, further extended,[814] and, on the other hand, limited by specifying that the list is exhaustive and by requiring only general information in relation to specific aspects, e.g., information on passport and visa requirements.[815] Most of businesses consider that **information requirements** are burdensome to a moderate or low extent.[816,817] Some business associations noted the complexity of the standard information forms and of the contract.

Other cost categories related to the implementation of the PTD included **liability for the performance of the package**, including compensation for improper performance and alternative arrangements. Most of the businesses indicated that these requirements caused moderate or high costs.[818,819] In terms of costs related to **assistance to travellers**, the PTD determined moderate costs for businesses,[820] estimated at EUR 65.2 per package on average.[821]

Businesses indicated that the measures on **insolvency protection** range from a high to a moderate cost or burden.[822] Currently the conditions of insolvency protection including its costs, vary significantly between Member States. The minimum insurance contributions are sometimes linked to percentage of turnover or a fixed amount, which can range between the Member States from EUR 2 500 to EUR 250 000 annually.[823] Some EU countries have put in place insolvency protection funds, while others rely on insurance policies, bank guarantees etc., and there are various combinations of these elements. Reported insurance costs for businesses to cover insolvency protection, as percentage of annual turnover are 0.1% to 1.1% in Italy, 0.023% in Belgium, 0.06% to 0.26% in France.[824,825,826]

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[813] See Section 2.2 Points of comparison.

[814] See Section 2.1 Intervention Logic and Appendix VI. The presentation of the Directive

[815] Article 5(f) plus Recitals 27 and 28

[816] Targeted survey – businesses (Q48) = 16. 44% (7 of 16) indicated that information requirements determined moderate costs, 31% (5 of 16) low costs and 25% (4 of 16) high costs.

[817] During interviews with business associations conducted by ICF, in terms of information costs, businesses and associations responding to the targeted survey identified a cost per package of 9.2 EUR. Although it was noted that information provision is part of doing business and its costs are often considered to be insignificant compared to the costs for insolvency protection and costs associated with liability for the performance of the package.

[818] Targeted survey – businesses (Q48) = 14. 57% (8 of 14) high costs, 29% (4 of 14) moderate costs, 14% (2 of 14) low costs.

[819] During interviews with business associations conducted by ICF corroborated with the reply to the targeted survey Q49, only one stakeholder quantified the costs for liability of the performance of the package including compensations for improper performance and identified a 25 EUR per package cost for businesses.

[820] Targeted survey – businesses (Q48) = 15. 40% (6 of 15) moderate costs, 33% (5 of 15) low costs, 27% (4 of 15) high costs.

[821] Targeted survey – businesses (Q52) = 5, including businesses associations.

[822] Targeted survey – businesses (Q48) = 14. 50% (7 of 14) high costs, 43% (6 of 14) moderate costs, 7% (1 of 14) low costs.

[823] ICF study, section 3, sub-section 3.6.3.2 and Appendix 6

[824] Sourced from interviews with business association. ICF study, section 3, sub-section 3.6.3.2.

[825] While not being able to provide specific figures, one leading business association interviewed noted that many of its members have faced rising insurance costs for coverage of insolvency protection. Sourced from interview with business association. ICF study, section 3, sub-section 3.6.3.2.

[826] Some businesses state that the volume of their insurance costs as a percentage of turnover is determined by the structure of the insurance market in their home country, such as in Belgium, where only two companies offer this kind of insurance. Sourced from interview with businesses. ICF study, section 3, sub-section 3.6.3.2.

Businesses also indicated that costs were incurred from hiring of new **staff** (29%), training of staff (79%) and purchase of **IT equipment** (57%)[827] although exact figures were not provided.[828]

Benefits

73% businesses indicated that the PTD has provided benefits to companies.[829] Benefits to businesses also arise from further harmonisation of the rules and reduction of fragmentation of the internal market. Also, the PTD enhanced transparency and strengthened legal certainty for both travellers and traders in cross-border transactions.[830] Some national authorities also voiced the view that the PTD has simplified legal obligations for travel agencies.

**Travellers**

Costs

Although the PTD benefited travellers, contributing to a reduction of their detriment, some challenges remain.

The 2021 application report states that 11% of all package travellers experienced **problems**, and 40% of these – that is 4.4% of all package travellers experienced financial loss. There is no information on the per person costs arising from these losses. However, according to Eurostat,[831] in 2017, Europeans booked over a 110 000 package travel trips, which made up 9% of all trips. If we project this to the number of travellers[832] we find that, in 2017, in the then EU-28 there were around 24 million people[833] using package holidays and around 960 000 people (4.4%) may have been affected by financial losses.[834]

[827] Targeted survey business, Q53: 14. Cost factors arising from the hiring of new staff (29%, 4 out of 14 respondents) training of staff (79%, 11 out of 14 respondents), purchase of IT equipment (57%, 8 out of 14 respondents). According to data from an interview, a company estimated EUR 9.000 per year in staff training to comply with rules on insurance. ICF study, section 3, sub-section 3.6.3.2

[828] One leading operator in Belgium stated that costs to achieve and maintain compliance, though difficult to specify in detail, are non-negligible. This included staff costs related to ensuring a correct classification of a product as an LTA or a package, additional administration costs related to separate purchase orders for services sold under LTAs, as well as approximately €9 000 per year in staff training to comply with rules on insurance. However, this operator stated that these costs were not noticeably financially damaging to their business and stressed that they were necessary. Sourced from interview with businesses.

[829] Targeted survey – businesses (Q56): 16 out of 22. Benefits to businesses also arise from further harmonisation of the rules and reduction of fragmentation of the internal market. ICF study, section 3, sub-section 3.6.3.2

[830] In addition, the 2013 Impact Assessment showed that due to the fact that the 1990 Directive was based on minimum harmonisation, legal discrepancies appeared between Member States. This fragmentation generated additional compliance costs for businesses wishing to trade cross-border. 'Businesses that trade across borders have to pay about € 375 to research information about the Member State in which they want to get active. They also have to bear recurring costs of adapting their information materials to the requirements of different Member States. Taking into account the average number of EU companies which make cross-border sales, this translates into about additional €2 per package out of which €1.7 is a one-off cost. The overall baseline administrative burden associated with cross-border trade has been estimated at € 26 million (out of which €21m are one-off costs for researching Member States' differing national legal requirements and legal advice; €5.1m are recurring annual administrative costs)'. See Impact Assessment SWD (2013) 263 final, p. 17.

[831] Eurostat: number of trips by type of organisation

[832] In 2017, in the then EU-28, Eurostat recorded 267,572,859 travellers.

[833] Based on Eurostat: Participation in tourism for personal purposes and calculating with 9% of the travellers in 2017 - 267,572,859 people.

[834] While data on the financial losses for package travel are not available, a Study on the current level of protection of air passenger rights in the EU (2020) provides some basis for a comparative estimation. The study focused on airline insolvencies in the period 2011 - 2019 and showed that 5.6 million passengers were impacted by airline insolvencies, and it estimated that on average these passengers have incurred €431 in costs. A large majority of these

Travellers were also affected by the 2019 **insolvency** of Thomas Cook.[835] Nevertheless, in general, rules on insolvency of the organiser proved to have worked well for packages, while being a challenge to implement them in the case of LTAs.[836]

On **standard information forms for packages**, most consumer organisations indicated that traders often do not provide them and that where packages are sold via a retailer, travellers do not understand **the role of organiser and retailer** regarding payments and refunds. Also, it may be that some traders circumvent the rules on packages.[837] Accordingly, consumer detriment could be further reduced by clarifications of certain provisions and simplification of the standard information forms so that travellers fully understand their rights.

**On standard information forms for LTAs**, travellers do not understand their rights in relation to LTAs.[838] Therefore, it is uncertain to what extent the forms contributed to limiting consumer detriment.

The 2013 IA found problems linked to the **termination of the contact**, e.g., lack of consumers' right to terminate the contract before the start of the package, this contributing to consumers' detriment. The 2015 PTD introduced rules in this respect.[839] The rules on contract termination raised disputes between travellers and organisers, in particular during COVID-19. However, this cannot detract from the overall benefit for travellers created by this cancellation right. Furthermore, it is not possible for legislation to include specific rules for each kind of situation that might occur in practice.

Also, travellers are not always sufficiently **aware of their rights** particularly when it comes to the termination of the package travel contracts.[840] Low awareness can contribute to unnecessary costs for travellers who are not able to use remedies for bankruptcies of organisers, cancellations or other challenges encountered during their tips.[841]

Benefits

Overall, 91% consumer organisations indicated that the PTD has provided benefits for travellers.[842] The PTD provides protection against **insolvency**, lays down **cancellation** and **refund** rights, the right to pre-contractual and contractual **information**, and rules on the **liability for the performance of the contract**.

A Commission behavioural study concludes that the PTD "helps reduce damages to consumers by about €430 million a year […] and form[s] the backbone of consumer protection and rights across the European Member States ensuring transparency and high levels of consumer protection.

(83% or €357) could not be recovered under the relevant regulatory mechanisms. https://op.europa.eu/en/publication-detail/-/publication/f03df002-335c-11ea-ba6e-01aa75ed71a1

[835] COM(2021) 90 final. Also, section 4.1.1, EQ3

[836] Section 4.1.1, EQ3 and EQ4

[837] See section 4.1.1, EQ1

[838] See section 4.1.1, EQ1

[839] See section 4.1.1, EQ5

[840] COM(2021) 90 final, p. 2

[841] In addition, whenever travel plans are overturned due to no fault of the consumer, consumers must also become knowledgeable about their rights. This introduces administrative burdens as consumers need to undertake research, engage with organisers over the phone or via email, submit documentation and in case of no resolution seek out support from competent authorities, claim agencies or lawyers which will require further resources. See European Commission (2020), Study on the current level of protection of air passenger rights in the EU.

[842] Targeted survey – consumer organisations (Q41) = 10 of 11

Namely, the Travel Package Directive ensures better protection of consumer rights on all platforms, in line with the evolving digital travel market."[843] National authorities stated that to a great extent or to some extent, the PTD has been effective in ensuring traveller protection.[844]

**Potential for simplification and improvement**

In relation to the potential for simplification and improvement of the PTD to reduce the costs and detriment to stakeholders, all stakeholders emphasised the need for simplified and clearer definitions, particularly regarding LTAs, and clearer rules on termination rights in the event of 'unavoidable and extraordinary circumstances', including on refunds.[845] In addition, consumer organisations emphasised the need for rules on limitation of pre-payments. Both businesses and consumer organisations called for rules on insolvency protection measures for transport providers, in particular for air carriers.[846]

**EQ8. What factors influenced the efficiency of reaching the objectives set by the PTD?**

As it emerges from EQ7, in particular the lack of clarity of certain provisions (e.g., LTAs, 'click-through packages') as well as differences in national approaches towards insolvency and refunds following the cancellation of contracts during COVID-19 were contributing factors to a somewhat less efficient PTD.

### 4.1.3. COHERENCE

**EQ9. Internal coherence: Are there any discrepancies and/or inconsistencies/lack of coherence between the provisions of the PTD?**

| |
|---|
| The evaluation found the PTD to be overall coherent internally, except some specific issues, i.e., the lack of clarity in key elements of the definition of LTA, the different roles of the companies involved in a travel package, insolvency protection of refund claims and vouchers issued by an organiser before its insolvency.<br><br>Regarding external coherence, overall, air passengers' rights legislation is generally coherent with the PTD excepting provisions on the termination of the contract, on the concept of '(unavoidable and) extraordinary circumstances' and on vouchers. |

***Definitions***

Most definitions in the PTD did not raise any internal coherence issues. However, in a few instances, a potential lack of coherence between different provisions was identified.

As explained in EQ1, the lack of clarity in key elements of the definition of LTA types (a) and (b) as well as unclear delimitation between packages and LTAs result in a lack of practical application of LTAs and, consequently, in travellers not being protected against the insolvency of the trader or in being deprived of the rights for packages.

During COVID-19, travellers found it difficult to understand the different roles of the companies involved in a travel package.[847] This question was also covered by suggestion 1 in the opinion of

[843] European Commission, Behavioural study […], p 10. Behavioural study on advertising and marketing practices in travel booking websites and apps - Publications Office of the EU (europa.eu).
[844] Targeted survey for NCAs (regulatory and enforcement): Q20 (N=27): to a great extent (10 out of 27), to a small extent (14 out of 27), to a small extent (3 out of 27).
[845] Business targeted survey, Q55 open question, N. = 15,..
[846] Consumer organisations targeted survey, Q39, open question n. = 4,. Positions papers of BEUC, ECTA, eutt.
[847] See Section 4.1.1, EQ1 section Liability of organisers.

the Fit for Future Platform.[848] However, it is not clear to what extent this issue is related to the definitions of the Directive, the specificities of national law in relation to the role of retailers or whether the information forms are not clear enough in this respect.

***Insolvency protection***

Regarding the insolvency protection, Article 17(1) and (2) should be read in conjunction with Recitals 39 and 40. However, divergent practices in the Member States were revealed as to whether refund claims and vouchers issued by an organiser before its insolvency are covered by insolvency protection.[849]

***Other provisions***

The pre-contractual information that the organiser or retailer must provide to the traveller, as per Article 5, does not include a reference to the right to terminate the contract without termination fee in accordance with Article 12(2). This right appears in the information form for packages (Appendix I of the PTD) only after the traveller has clicked on a link. Furthermore, the fact that this right is not mentioned in Article 5, whereas the right to cancel the contract subject to a fee is mentioned there, could potentially be confusing for travellers and result in a lack of awareness of this right.

**EQ10. External coherence: To what extent is the PTD coherent with wider EU policies, such as rules on free movement of services, fundamental rights, consumer rights, mutual recognition, competition, industrial policy, transport and mobility, environmental protection (sustainability), health and trade, digital policies?**

Several EU-level legislative instruments touch upon aspects that are covered by the PTD or are relevant for provisions in the PTD.

***Consumer protection instruments***

The PTD is overall coherent with the legislation in the field of consumer protection. Certain synergies exist with Directive 2005/29/EC on unfair business-to-consumer commercial practices in the internal market,[850] Directive 2006/114 on misleading and comparative advertising,[851] Directive 2011/83/EU on consumer rights. Regarding *alternative dispute resolution* and *representative actions*, the PTD is complementary to Directive 2013/11/EU on alternative dispute resolution for consumer disputes,[852] Regulation (EU) No 524/2013 on online dispute resolution for

[848] Suggestion 1: Better information on the identity of the contractual partners and on contact details and better enforcement of rules, https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en

[849] See EQ3

[850] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22–39).

[851] Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21–27).

[852] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).

consumer disputes[853] and Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers.[854]

***Passenger rights instruments***

The *objectives and scopes* of all passenger rights instruments are complementary to the PTD. The instruments generally aim at establishing a minimum level of passengers' rights, thereby contributing to maintaining a high level of consumer protection. Several consumer protection aspects overlap with passengers' rights (e.g., the right to information, refunds and compensation, assistance). However, legislation on passengers' rights explicitly regulates that the PTD is applicable instead of passenger right legislation, thus preventing (to a certain extent) conflicting rules or legal uncertainty.[855] Conversely, the PTD aims to achieve coherence with the passenger rights regulations in different respects, e.g., references to passenger rights in Article 13(7) on accommodation to be provided in case of a delayed return journey and in Article 14(5), which provides for the parallel application of compensation under the two instruments preventing over-compensation.

Compared to the PTD, provisions on *information requirements* in passengers' rights legislation are more tailored to the offered transportation services, and thereby, are complementary to the PTD.

Overall, air passengers' rights legislation is generally coherent with the PTD except for: (a) termination of the contract, (b) concept of '(unavoidable and) extraordinary circumstances' and (c) provisions of vouchers.

(a) Under Article 12(1) and (2), the traveller has the right to terminate the package travel contract before its performance either against a fee or free of charge in the event of 'unavoidable and extraordinary circumstances'. In the latter case, the organiser must reimburse the traveller all pre-payments within 14 days (Article 12(4)).[856] Under Regulation (EC) No 261/2004, even in the event of 'unavoidable and extraordinary circumstances', the passenger does not have the right to cancel the transport contract (unless the passenger bought a – more expensive - refundable ticket). This leads to situations where the package travel contract is cancelled due to 'unavoidable and extraordinary circumstances' but the air carrier refuses to reimburse the organiser because the flight is operated. Problems emerged during COVID-19 where under Article 12(2) and (4), travellers should have been reimbursed by organisers, which, however, were not reimbursed by air carriers in such situations.

(b) While the PTD defines the concept of 'unavoidable and extraordinary circumstances', adding criteria justifying termination of the contract by the traveller,[857] Regulation (EC) No 261/2004 does

[853] Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1).

[854] Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1–27).

[855] E.g., Regulation 1177/2010 on the rights of passengers when travelling by sea and inland waterway, recital 20; Regulation 1107/2006 on the rights of disabled persons and persons with reduced mobility when travelling by air, recital 3; Regulation 261/2004 on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, Articles 3(6) and 8(2); Regulation 181/2011 on the rights of passengers in bus and coach transport, Article 2(8).

[856] See section 4.1.1., EQ5

[857] Articles 3(12) and 12(2).

not define the concept as such, although an air carrier has to reimburse passengers the price of air ticket but is exempted from paying compensation if 'it can prove that the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.'[858] Still, this wording demonstrates the parallel nature of this concept in the two instruments, in particular since under Article 14(3), the organiser is not obliged to pay compensation if it can invoke unavoidable and extraordinary circumstances. On numerous occasions, the CJEU has been requested by national courts to clarify the provisions related to 'extraordinary circumstances' under Regulation 261/2004 and hence a rich jurisprudence exists in this respect.[859] Different interpretations of this concept under the PTD and Regulation (EC) No 261/2004 could be problematic. However, it is not evident that there is actual incoherence between the two instruments in this respect. The main difference between the two instruments is the lack of a cancellation right for passengers under Regulation (EC) No 261/2004, which can have a negative impact also on organisers and travellers, as explained in point (a).

(c) Regarding vouchers, while Regulation (EC) No 261/2004 provides for the possibility of air carriers to use vouchers for compensation 'with the signed agreement of the passenger', the PTD has no such provision. Therefore, there is a potential gap in the PTD in this respect.[860,861]

Another apparent inconsistency refers to the different deadlines for reimbursement of pre-payments in the event of cancellation of a package or flight. Under the PTD, organisers must refund travellers within 14 days, whereas reimbursement must take place within 7 days under Regulation (EC) No 261/2004.[862] Nevertheless, the different deadlines do not seem to affect the implementation neither of the PTD nor of Regulation (EC) No 261/2004.

***Insolvency legislation***

The PTD and Regulation (EU) 2015/848 on insolvency proceedings[863] aim at the proper functioning of the internal market but have a different purpose.[864] In that respect, no potential conflict has been identified.

Regarding **passengers' rights legislation**, insolvency protection under the PTD is in some cases complementary to it, however the lack of insolvency protection for carriers, in particular for airlines, increases the financial burden on organisers.[865] The lack of protection against the

[858] Article 5(3) of Regulation (EC) No 261/2004

[859] Summary of the most relevant Court of Justice of the European Union (CJEU) judgements, https://transport.ec.europa.eu/system/files/2022-03/2022-summary-of-the-most-relevant-cjeu-judgements.pdf, p12

[860] The need for rules on vouchers under the PTD has been a recurrent point discussed by stakeholders in several fora. E.g., PTD study, Minutes of the Second Workshop, 7th December 2022; Meeting of the PTD expert group of 24 March 2022 and of 8 November 2022; The Package Travel Directive: BEUC's position on how to regain consumers' trust in the tourism sector, 10 December 2021.

[861] See also Section 4.1.1., EQ5

[862] Article 12(4) PTD and Article 8(1)(a) of Regulation (EC) No 261/2004

[863] Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) (OJ L 141, 5.6.2015, p. 19–72).

[864] While the PTD aims to ensure that travellers recover pre-payments made for unperformed services as a consequence of the organiser's insolvency, Regulation 2015/848 aims to ensure the efficient administration of insolvency proceedings involving an individual or business with business activities or financial interests in a Member State other than the one in which they are usually based.

[865] See section 4.1, EQ3

insolvency of airlines in the EU legislation has been raised as a key coherence issue by representatives of consumers and travel package organisers on many occasions.[866]

***State aid instruments, health related instruments and EU trade commitments***

The research did not find any major coherence issues in these fields. Overall, national state aid measures and EU State aid rules, as well as health related instruments may complement the PTD. EU trade commitments under WTO General Agreement on Trade in Services[867] are also compatible with the PTD and vice versa and have not led to any issues.

***Environmental protection legislation***

The PTD is silent about information on environmental aspects of travel packages (e.g., environmental footprint), which could constitute a potential gap in light of the EU's policy on climate protection, but not a matter of incoherence with other legislation.[868]

### 4.2. How did the EU intervention make a difference and to whom?

**EU added value**

The following section presents the main benefits of the PTD and explains to what extent the positive effects could not have been achieved at national level. It is partially based on desk research, but mainly on consultations, including surveys, a public consultation, interviews and stakeholder workshops.

**EQ11. What is the added value resulting from the application of the PTD, compared to what could reasonably have been expected from Member States acting at national and/or regional levels? What would be the most likely consequences of withdrawing the PTD?**

There is **clear added value** for EU action in package travel legislation above and beyond what can be achieved at the level of the Member States. Although there is room for improvement in specific respects, overall, it provides clear rules and equal treatment of travellers across the EU, while for businesses it creates, largely, a level playing field, which would not have been the case without the PTD.

The **added value** of the Directive **remains considerable** despite specific aspects that still require some improvement. This is mostly due to the changes in market triggered by e.g., the developments of technologies and major crises.

The clear added value is reflected in the views of stakeholders. 72% of the NCAs, 73% of business associations and 91% of consumer organisations stated that regulating package travel at EU-level

[866] E.g., PTD study, Minutes of the First Workshop, 26th October 2022; Meeting of the PTD expert group of 24 March 2022.

[867] Schedules of WTO Members with Specific Commitments on Tourism Services, members_tourism_commitments.pdf (wto.org)

[868] 82% of respondents in the public consultation do not consider the need to include rules on environmental impacts in the PTD. Public consultation Q31: 391 of 477 respondents. However, 8 out of 20 consumer organisations supported the idea of additional rules on environmental impact.

benefits traders and travellers to a great extent" compared to regulating it separately – and differently - in each EU country.[869,870,871]

The PTD provides a high degree of **protection for consumers** in all Member States, which would not have been achieved with the Member States acting individually. Several consumer organisations stated that the PTD 'has added value', emphasising the need for travellers to be protected and the way that this has been reached at EU-level by the PTD.[872] National authorities considered the PTD has been effective in ensuring consumer protection and consumers would not be sufficiently protected in the package travel market if the PTD were withdrawn.[873] BEUC has also expressed consumers' desire for protection, noting that they were often willing to pay a higher price to guarantee it.[874] It follows that there is clear awareness amongst relevant stakeholders that withdrawing the PTD would be detrimental to consumer protection.[875]

The value of the PTD for ensuring consumer protection was also confirmed during COVID-19. At the start of the crisis, several Member States temporarily amended their national legislation transposing the PTD to make vouchers mandatory for consumers or to postpone their right to a monetary refund beyond the prescribed 14 days.[876] The Commission called for compliance with the PTD through its Recommendation on vouchers[877] and aimed to guarantee the right of travellers to a monetary refund in relation to pandemic-related cancellations. BEUC stated that that the Recommendation was "strongly welcomed" by it and its members. In July and October 2020, the Commission also launched infringement procedures against 11 Member States for adopting COVID-19 related measures contravening the PTD.[878]

Withdrawing the Directive would lead to **regulatory gaps and divergence of standards**. Some industry stakeholders argued that any change – even removing the Directive – would lead to adaptation costs simply because every change implies new costs.

For **pre-contractual information**, a withdrawal of the Directive could have detrimental effects for industry and consumers, leading additional costs and more effort for businesses, in particular in cross-border sales, as well as legal uncertainty and lack of clarity for consumers. Removal of the **organiser's liability** for the performance of the contract and for refunds could add confusion for consumers and decrease their possibilities in defending their rights. The provisions on **termination of the contract** aim at ensuring the same high level of protection for traveller and a

[869] Targeted survey for NCAs (regulatory and enforcement) (Q30) N = 29, 72% (21 out of 29) 'to a great extent', 28% (8 out of 29) 'to a small extent', 0% (0 out of 29) 'not at all'.
[870] Targeted survey business associations (Q56) N = 22, 73% (16 out of 22) 'to a great extent', 23% (5 out of 22) 'to a small extent', 5% (1 out of 22) 'not at all'.
[871] Targeted survey consumer organisations (Q41) N = 11, 91%(10 out of 11) 'to a great extent', 9% (1 out of 11) 'to a small extent', 0% (0 out of 11) 'not at all'
[872] Scoping interview with consumer organisations – PTD Study, (2022).
[873] Targeted survey for NCAs (regulatory and enforcement), Q20 N=27: to a great extent (10 out of 27), to a some extent (14 out of 27), to a small extent (3 out of 27).
[874] BEUC (2020) BEUC'S Position on traveller's rights during the COVID-19 crisis, p. 3.
[875] Targeted survey for NCAs (regulatory and enforcement): Q31 (N=28): Agree (20 out of 28), Tend to agree (7 out of 28), Disagree (1 out of 28).
[876] European Court of Auditors, (2021), Special Report: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts.
[877] Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020H0648
[878] The EU Member States concerned were Bulgaria, Czechia, Cyprus, Croatia, France, Greece, Italy, Lithuania, Poland, Portugal and Slovakia.

level playing field for traders. Different rules at EU level on **insolvency protection** would lead to increased costs for industry and could negatively impact the protection of consumers.

Therefore, without the Directive, **uncertainty and legal confusion, as well as costs, would most likely increase**.

Withdrawing the Directive could lead to an increasingly **fragmented approach** to the regulation of market developments, with associated differences in levels of consumer protection. Reduced harmonisation of the provisions covered by the Directive would adversely impact cross-border sales. Greater differences between Member States would heighten the difficulties for organisers to comply with the varying regulations and possibly imply higher costs. It would furthermore distort competition due to a reduction of the current level-playing field.

### EQ12. To what extent do the issues addressed by the PTD continue to require action at EU level?

Some issues addressed by the PTD continue to require further action at EU level, i.e., travellers recover of pre-payments for cancelled packages in the event of a major crisis; better protection of pre-payments, including of refunds and vouchers, against the insolvency of the organiser; clarifications of certain issues, e.g., on the termination of the contract in the event of 'unavoidable and extraordinary circumstances', on the concept of LTAs.

Travellers face difficulties in recovering pre-payments for cancelled packages in the event of a major crisis, e.g., COVID-19

The right of travellers to be reimbursed within 14 days should be respected regardless of the circumstances. Reimbursement of pre-payments is an area needing improvement as noted in particular by consumer organisations, with BEUC recommending that the Commission "consider amending the Directive to ensure that all European consumers benefit from a broader scope of financial protection of pre-payments, including for cancelled travel in extraordinary circumstances and for respective vouchers."[879] The protection of pre-payments was addressed on multiple occasions during the consultation process, including various workshops, where different policy options were discussed, such as limitation of pre-payments, explicit rules on business-to business refund rights or voluntary vouchers.[880] Many national authorities believe that the protection of pre-payments should be increased, specifying that this can be best addressed through amendments to the PTD, while some believe it can be best addressed through enforcement, and a few believe that protection of pre-payments do not require further action.[881]

Better protection of pre-payments against the insolvency of organisers

The evaluation found that, despite the strengthening of insolvency protection in many Member States, there are still differences between the national systems and there is at least a perception that the protection may not be solid enough in some Member States. One specific problem is that Member States have divergent approaches regarding the protection of pre-payments in the event a package organiser goes bankrupt after issuing a voucher or delaying the reimbursement of consumers following a cancellation.[882]

[879] BEUC (2020) BEUC's Position on traveller's rights during the COVID-19 crisis, page 6.
[880] See EQ5
[881] Targeted survey for NCAs (regulatory and enforcement): Q32, N=26: 20 of 28 Agree, 7 of 28 Tend to agree, 1 of 28 Disagree.
[882] See EQ3

Further EU action seems necessary, involving the clarification of Article 17(1), some further specification of the means to ensure effective insolvency protection, and, where necessary, enforcement activities by the Commission in relation to the Member States.

In addition, BEUC, along with several business associations, have called for "creat[ing] a protection scheme for airline insolvencies", covering the refund, financial protection and potential repatriation of passengers.[883,884] For instance, in Denmark, an insolvency protection scheme for airlines has been set up (after an agreement from relevant parties, including consumer groups), which is highly appreciated by all stakeholders.[885] Further EU action regarding insolvency protection, possibly following this example at Member State-level, could be a key factor in increasing travellers' protection and achieving a more balanced sharing of risks in the package travel supply chain. Extending the scope of insolvency protection to cover a wider range of actors in the travel market, specifically to actors occupying a significant percentage of the price of a package, would likely be of benefit to consumers paying for airline tickets in advance, in the event of the airline's insolvency. However, this question is subject to revision of the passenger rights regulations.

Legal clarity and practical implementation of the Directive

Some provisions of the PTD are not sufficiently clear, contain gaps or are too complex, thereby contributing to uneven levels of consumer protection in practice and distortions of competition. This concerns, for instance, the definition of and provisions on LTAs or certain details regarding cancellation rights. Furthermore, targeted improvements in the information to be provided to travellers, e.g., on the role of different parties (organisers, retailers, and service providers) could be beneficial. This could be addressed, at least partially, through simplification and clarification, which would enhance the enforceability of the PTD.

## RELEVANCE

This section aims to assess the extent to which the objectives of the PTD correspond to current needs, in particular in times of crisis.

### 4.3. Is the intervention still relevant?

**EQ13. To what extent do the initial objectives of the PTD still correspond to the current needs?**

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| The evaluation found that the objectives of the Directive were in line with the expected needs of consumers and traders at the time the Directive was introduced and remain relevant for the current needs. |

Considering the share of packages in the tourism market in the EU,[886] the PTD still responds to the need for a regulatory framework to ensure the functioning of the internal market in the package travel sector and the protection of consumer rights. However, some areas - such as legal clarity of some provisions, reimbursement of pre-payments for cancelled packages in the event of a major crisis, protection of pre-payments – may require targeted actions to take into account market

[883] BEUC (2020) BEUC'S Position on traveller's rights during the COVID-19 crisis, page
[884] Minutes of the Workshop 1 of the PTD Study with business and consumer organisations (2022).
[885] Minutes of the Workshop 1 of the PTD Study with business and consumer organisations (2022).
[886] See sections 2.2 and 3

developments, practical experience in the application of the PTD and added pressures caused by crises.

**Objective 1: Proper functioning of the internal market**
The rapid evolution of the package travel market, influenced in particular by the widespread use of the internet, changed the way in which consumers arrange and book the services for their holidays.[887] The evaluation indicate that the lack of clarity of some of the definitions in the PTD, e.g., the new concept of LTAs, led some traders to change their business models/booking processes to avoid being considered as package organisers. There are strong indications that there is a grey zone, which traders are likely to use to different extents. This hampered the proper functioning of the package travel market. Furthermore, in the public consultation, 57% of respondents considered that the PTD is not well adapted to market trends.[888]

On insolvency protection,[889] the introduction of the mutual recognition mechanism contributed to addressing challenges with barriers to cross-border trade linked to divergent insolvency protection schemes. While, overall, the insolvency protection systems are stronger than they were in 2013, the fact that the PTD still leaves room for the Member States to organise their insolvency protection system, could indicate that the objective of a more comparable level of insolvency protection across the EU has not yet been fully met.

**Objective 2: Achievement of a high and as uniform as possible level of consumer protection**
The PTD introduced a number of elements to address key problems faced by travellers before its revision.[890] To address those issues, the PTD introduced enhanced information requirements, strict rules on liability, stronger cancellation rights, as well as assistance to travellers in the event of unavoidable and extraordinary circumstances. The PTD also extended the definition of package and, on the other hand, introduced the concept of LTAs. Although, the PTD has brought significant benefits in terms of consumer protection, the uncertainty in relation to some provisions as well as certain gaps in the PTD could cause remaining consumer detriment, in particular in times of crisis.

**EQ14. To what extent are key concepts of the PTD still fit for purpose?**

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| The evaluation found that the concept of LTAs as currently defined in the PTD may no longer be fit for purpose. |

In particular, the current gradual approach with fully protected packages at one end and stand-alone services (not regulated by the PTD) at the other and two types of LTAs in the middle has turned out to be overly complex and too difficult to apply in practice.

[887] European Commission, (2013), Impact Assessment, SWD(2013) 263 final.
[888] Public consultation Q3: 257 out of 468 respondents. N=468.
[889] The 2013 IA also highlighted that under the 1990 PTD there were no explicit requirements for the actual methods of ensuring insolvency protection and as a consequence, diverging methods of insolvency protection in the Member States emerged. This, together with the lack of explicit rules on mutual recognition of insolvency protection, led to a situation where some retailers or organisers trading cross-border had to pay several times for insolvency protection. SWD(2013) 263final, p.17.
[890] According to the 2013 IA, consumer detriment could be divided in two categories. One category related to specific problems stemming from unclear and outdated rules resulting in uncertainty in relation to prices, liability, right to compensation and cumbersome access to justice. The second category is related to the detriment suffered by travellers purchasing a 'combined' travel arrangement. Ibidem p.20.

Indeed, certain concepts appear to be too narrow or necessary elements are difficult to establish in practice, as in the case of LTAs.[891] Regarding type (b) LTAs, it appears to be difficult to identify whether the conditions have been met. At the same time, type (a) LTAs are difficult to distinguish from certain packages in practice.

The difficulty for travellers to understand the nature of their travel contract (package, LTA, stand-alone services) prevents them from understanding the extent of their rights and degree of protection.[892] Most stakeholders consider that the provisions on LTAs have not improved the protection for travellers.[893] Considering the apparent ease with which the rules of packages can be avoided or circumvented through the rules on LTAs, while LTAs are difficult to identify in practice and therefore to enforce, this element of the PTD appears to be unfit for purpose.[894]

In addition, the difficult implementation and enforcement of insolvency protection for LTAs hindered the effectiveness of PTD's provisions on insolvency protection 'to a very great extent'.[895]

## 5. WHAT ARE THE LESSONS LEARNED AND THE CONCLUSIONS?

### Lessons learned

The evaluation found that the **objectives** of the Directive were **in line with the expected needs** of travellers and package travel organisers/retailers at the time when the Directive was adopted **and remain relevant**. However, developments in the market (mostly due to the increasing digitalisation and changes in business practices), practical experience in the application of the Directive and problems caused by the COVID-19 crisis, reveal that **some consumer needs** (protection and refunds of pre-payments, complexity of products, presentation of information) **are not fully addressed** by the Directive as it stands and require further action.

The challenges found by the evaluation can be grouped in three main problems hampering the effectiveness of the PTD.

The first problem relates to challenges with **refunds for cancelled travel packages** in particular in a major crisis. There are four drivers for this problem. The first driver is the practice of prepayments. The second is the lack of liquidity of organisers when faced with many concurrent requests for a refund. Since organisers use the prepayments received from travellers to prepay certain services included in a package, they depend on refunds from service providers in order to reimburse travellers if the package is cancelled. As experienced during the pandemic, many organisers did not receive (timely) refunds from service providers (e.g., airlines and hotels) and so were unable to reimburse travellers within the mandatory period. The PTD does not contain business-to-business rules on refunds in the event of cancellations. In addition, there is legal uncertainty about the use of vouchers. In fact, during the pandemic, following the cancellation of a package due to unavoidable and extraordinary circumstances, organisers often imposed vouchers on travellers instead of a refund, and the rights of travellers in relation to vouchers were unclear. Several Member States even adopted temporary legislation allowing organisers to impose vouchers on travellers or providing for the suspension of refund rights under the PTD, triggering

[891] COM(2021) 90 final, p. 6
[892] BEUC (2021), The Package Travel Directive: BEUC's Position on how to regain consumers' trust in the tourism sector, p.25.
[893] Public consultation Q26: 67% of respondents (269 out of 403). N=403.
[894] See section 4.1.1., EQ1
[895] See section4.1.1., EQ3

infringement proceedings. In May 2020, the Commission adopted a recommendation on voluntary vouchers issued during the pandemic. The uptake in the Member States was mixed.

The second identified problem relates to the fact that prepayments from travellers are not sufficiently protected against the **insolvency of the organiser**. The evaluation identifies three relevant drivers. There are divergent practices in the Member States as to whether vouchers as well as refund rights stemming from a cancellation which have not been settled before an organiser goes bankrupt are protected against the organiser's insolvency. Furthermore, significant differences remain between the national insolvency protection systems. Moreover, at least in some Member States, package organisers find it difficult to obtain insolvency protection, especially during a crisis. This is, for instance, due to insufficient or expensive insurance solutions available in some markets.

The third problem relates to **difficulties in the implementation of the PTD**. Several drivers were identified. Certain provisions of the PTD are not sufficiently clear, contain gaps or are too complex, thereby contributing to uneven levels of consumer protection and distortions of competition. This concerns, for instance, the concept of '**click-through packages'** and provisions on **LTAs** as well as the cover of **refund claims and vouchers** by insolvency protection and the rules on **cancellations** in the case of unavoidable and extraordinary circumstances. In addition, the role of different parties (organisers, retailers, and service providers), including in relation to refunds, is not always understood by travellers. Finally, the standard information forms are complex to use.

**Conclusions**

Provisions on **reimbursement of pre-payments** for packages cancelled due to unavoidable and extraordinary circumstances and, in particular, in the event of a major crisis and on the **protection of pre-payments in the event of the insolvency of the organiser** may need to be clarified or amended to ensure their effectiveness at all times, in particular in times of crisis, after assessing the impacts of possible amendments and there is scope for simplification and clarification.

Regarding **insolvency protection**, it may be beneficial to add some details and clarifications so as to enhance the effectiveness of the current regime, while maintaining the responsibility of the Member States for the details of the systems implemented at their level.

Furthermore, targeted improvements in the **information to be provided to travellers**, for instance, on the **role of different parties** (organisers, retailers, and service providers) including in relation to refunds, and **clarification and simplification of the standard information forms**, together with the clarification of the key concepts of the Directive, could be beneficial. Also, certain clarifications regarding **cancellation rights** may contribute to the achievement of a high and as uniform as possible level of traveller protection as well as a level playing field for the businesses operating in the travel market.

Such improvements could be expected to enhance the application and enforceability of the Directive and could be expected to lead to better compliance by traders and fairer competition.

## APPENDIX I: PROCEDURAL INFORMATION

# SEE ANNEX 1: PROCEDURAL INFORMATION TO THE IMPACT ASSESSMENT

## APPENDIX II. METHODOLOGY AND ANALYTICAL MODELS USED

# SEE *ANNEX 4: ANALYTICAL METHODS* TO THE IMPACT ASSESSMENT

## APPENDIX III. EVALUATION MATRIX

| N | Research questions | Sub-questions | Indicators | Sources |
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| | | **I. Effectiveness** | | |
| 1 | **To what extent do the observed effects correspond to the PTD objectives and which are the elements that have contributed to improve consumer protection including in the areas which were previously not explicitly covered by the Directive?** | Are there gaps or uncertainty in the legislation, as possibly demonstrated by changes in business practices or experiences from travellers/consumers that can be identified, and is the level of harmonisation now appropriate or should further harmonisation be envisaged?<br><br>Do travellers understand their rights in relation to LTAs?<br><br>Are there typical cases in practice that may cause confusion regarding the border between package and LTAs?<br><br>Do travellers receive clear information regarding the package travel or the linked travel arrangements they are purchasing an on the rights and obligations of the parties? Have the grey areas been removed | Comparison with the situation prior to the adoption of the 2015 Directive, starting with 2013, when the Impact Assessment was finalised.<br><br>Case examples of whether the difference between package and LTA may be unclear.<br><br>Stakeholders' opinions on the extent to which the PTD has achieved its objective of ensuring a high level of consumer protection across the Union<br><br>Stakeholders' opinions on the extent to which there is now effective protection of consumers in the areas that were previously considered grey areas, and extent to which previously grey areas have been reduced/removed | Desk research, including the *Impact Assessment, accompanying the document on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004l and Directive 2011/83/EU and repealing Council Directive 90/314/EEC* (SWD/2013/0263 final), the *Report on the application of Directive (EU) 2015/2302* (COM(2021) 90 final), *Report on the provisions of Directive (EU) 2015/2302 applying to online bookings made at different points of sale* (COM(2019) 270 final), *Special report No 15/2021 - Air passenger rights during the COVID-19 pandemic: Key rights not protected despite* |

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| | | completely or are there possibly new grey areas (i.e. have they possibly shifted)?<br><br>Do travellers understand correctly the role of different parties involved in the performance of the package travel contract (organiser, retailer, service provider)?<br><br>Do stakeholders see any gaps in the PTD?<br><br>Are there any aspects / means / actors that render certain aspects of the Directive more or less effective than others and if there are, what lessons can be drawn from this?<br><br>What are, if any, the consequences or effects (either positive or negative) that were not originally planned? | Member States' national legal provisions in areas considered as grey areas | *Commission efforts* of the European Court of Auditors, Fit for Future Platform Opinion,<br>- transposition of the PTD in the MS,<br>-stakeholders' position papers.<br><br>Contributions to the public consultation.<br>Targeted surveys.<br>Interviews.<br>Workshops. |
| 2 | **How has the still growing role of online intermediaries (in a broad sense, including organisers) and other novel business models affected the effectiveness of the PTD?** | Is the PTD well adapted to market trends, including the constant expansion of sales by online booking and of bookings on mobile devices?<br><br>Have the business models of operators changed since the PTD became applicable? Is there any data suggesting that traders or certain categories of traders have changed their business model in order not to be considered as package organisers? | Evolution in the online intermediaries and other novel business models in the travel market.<br>Stakeholders' opinions on the extent to which the PTD has achieved its objective of ensuring a high level of consumer protection across the Union<br><br>Stakeholders' opinions on the extent to which there is now effective protection of consumers in the areas that were previously considered grey areas, and extent to which | Desk research including the *Report on the application of Directive (EU) 2015/2302* (COM(2021) 90 final) and stakeholders' position papers, statistic data.<br>Contributions to the public consultation<br>Targeted surveys.<br>Interviews.<br>Workshops. |

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| | | If yes, have the rules of the PTD influenced businesses to change their business model? | previously grey areas have been reduced/removed | |
| 3 | **How effective are the PTD rules on insolvency protection and the national insolvency protection systems based on those rules?** | Are there differences in the national insolvency systems set up by the Member States? Do these differences pose problems for travellers or travel businesses or lead businesses to organise this protection under less strict rules of some Member States?<br><br>Have the national insolvency systems been effective in case of insolvencies of organisers, including of large organisers?<br><br>Have travellers face problems when asking for reimbursement of payments for travel services that were not performed following the organiser's insolvency?<br><br>Has the guarantee for repatriations been effective in practice?<br><br>Is the continuation of packages referred to in Article 17(1), first sub-paragraph, third sentence relevant in practice and to what extent is it the preferred solution of travellers, organisers and insolvency protection bodies? | Estimates on number of insolvency cases and on businesses and consumers who resorted to insolvency protection, before and during the Covid-19 pandemic.<br><br>Differences in the standards of insolvency protection applied in the EU Member States.<br><br>Stakeholders' opinions on the effectiveness of the PTD rules on insolvency protection and the national insolvency protection systems based on those rules<br><br>Number/value of refunds given to travellers | Desk research, including the *Impact Assessment, accompanying the document on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004l and Directive 2011/83/EU and repealing Council Directive 90/314/EEC* (SWD/2013/0263 final), the *Report on the application of Directive (EU) 2015/2302* (COM(2021) 90 final), Fit for Future Platform Opinion,<br>- transposition of the PTD in the MS, in particular the provisions regarding the insolvency protection systems,<br>-stakeholders' position papers.<br><br>Contributions to the public consultation.<br>Targeted surveys.<br>Interviews, in particular with the national central contract points for insolvency protection. |

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| | | Is the mutual recognition of insolvency protection mechanism used in practice and is it effective?<br><br>Are there gaps in the current scope of protection that can still lead to material exposure of travellers in case of insolvency of organizers? | | Workshops. |
| 4 | **Is there clarity for traders facilitating an LTA on the insolvency protection cover they have to obtain, and, for consumers, on the fact that they are entitled to insolvency protection, where the conditions under Art. 19 PTD are satisfied?** | Do traders understand their rights on insolvency in relation to LTAs?<br><br>Do travellers understand their rights on insolvency in relation to LTAs?<br><br>Do travellers receive refunds and repatriation in cases where a travel service was not performed because a facilitator of an LTA went bankrupt? | Traders facilitating LTAs who indicate they understand the provisions on the insolvency protection cover<br><br>Views from insolvency protection bodies on the extent to which traders facilitating LTAs secure themselves against insolvency<br><br>Stakeholders (particularly consumer organisations) views on the extent to which travellers are aware that they are entitled to insolvency protection under Art 19 PTD<br><br>Estimate on number of travellers who are aware that they are entitled to insolvency protection under Art 19(1) PTD in relation to (a) LTAs in general and (b) in relation to specific LTAs they have book.<br><br>Estimate on number of travellers who have benefited from insolvency protection under Art. 19(1) PTD a) in relation to potential to | Desk research, including the *Report on the application of Directive (EU) 2015/2302* (COM(2021) 90 final), Fit for Future Platform Opinion,<br>-stakeholders' position papers.<br><br>Contributions to the public consultation.<br>Targeted surveys.<br>Interviews, in particular with the national central contract points for insolvency protection.<br>Workshops. |

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| | | | LTAs in general and b) in relation to actual insolvencies of traders facilitating LTAs<br><br>Types of evidence most frequently used by travellers to show that they are entitled to insolvency protection | |
| 5 | **How effective is the PTD in ensuring effective and efficient reimbursement of pre-payments under Article 12(2) and (4) even in times of crisis?** | Are the provisions of Article 12(2) and (4) clear for traders, travellers and national authorities?<br><br>Did travellers face difficulties in recovering pre-payments within 14 days from the termination of the contract due to 'unavoidable and extraordinary circumstances', including during the COVID-19 pandemic? If yes, what problems did they face?<br><br>Did traders face difficulties in reimbursing pre-payments within 14 days from the termination of the contract due to 'unavoidable and extraordinary circumstances', including during the COVID-19 pandemic? If yes, what problems did they face? | Problems faced by travellers regarding reimbursement of pre-payments in the event of contract termination due to 'unavoidable and extraordinary circumstances', including during the Covid-19 pandemic.<br><br>Average time for reimbursement (days) during and outside of a major crisis , e.g. COVID-19.<br><br>Stakeholders' views on the extent to which the PTD is well adapted to ensure the effective and efficient reimbursement of pre-payments even during a major crisis. | Desk research, including the *Impact Assessment, accompanying the document on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004l and Directive 2011/83/EU and repealing Council Directive 90/314/EEC* (SWD/2013/0263 final), the *Report on the application of Directive (EU) 2015/2302* (COM(2021) 90 final), Fit for Future Platform Opinion,<br>- transposition of the PTD in the MS,<br>-stakeholders' position papers.<br><br>Contributions to the public consultation.<br>Targeted surveys.<br>Interviews.<br>Workshops. |

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| 6 | **How effective has the liability for booking errors introduced in Article 21 PTD been in practice?** | To what extent did travellers experience a booking error as a result of a technical defect in the booking system?<br><br>In the event of a booking error caused by a technical error in the booking system, did affected travellers receive compensation? | Number / proportion of travellers who have experienced a booking error as a result of a technical defect in the booking system.<br><br>Number / proportion of such travellers who received compensation because of a booking error caused by a technical error in the booking system.<br><br>Case examples of where Art 21 has been used in practice.<br><br>Stakeholders' opinions on the extent to which the liability for booking errors introduced in Art 21 PTD remains relevant in practice | Public consultation<br>Consumer survey<br>Targeted surveys<br>Interviews<br>Workshops |
| **II. Efficiency** | | | | |
| 7 | **What are costs and benefits (monetary and non-monetary) of the PTD for the different stakeholders involved (Member States authorities, businesses, consumers)?** | To what extent are these costs proportionate to the benefits?<br><br>Are there opportunities to simplify the legislation or reduce unnecessary regulatory costs without undermining the intended objectives of the PTD (i.e. could similar effectiveness levels be achieved at lower costs)? | Category of cost (direct, indirect, enforcement).<br><br>Type of cost (one-off or recurring), and the timeframe over which it has arisen or will arise.<br><br>Estimates on number of stakeholders group affected, organised per group (e.g., national legislators, businesses, consumers).<br><br>New administrative procedures concluded for ensuring the enforcement of the PTD's | Desk research, statistics from Eurostat, data in marketing monitoring survey<br>Public consultation<br>Targeted surveys<br>Interviews<br>Workshops<br>Cost-benefit analysis<br>Multi-criteria analysis |

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| | | | provisions and for monitoring their correct implementation.<br><br>Category of benefit (direct, indirect)<br><br>Type of benefit (one-off or recurring), and the timeframe over which the benefit is expected to arise or have arisen.<br><br>Estimates on number of stakeholders group affected, organised per group (e.g., national legislators, businesses, consumers).<br><br>Cost-benefit ratio between achieved benefits and spending.<br><br>Proportion of stakeholders who agree that the costs of the PTD are justified and proportionate with the benefits | |
| 8 | **What factors influenced the efficiency of reaching the objectives set by the PTD?** | / | Factors that influenced the efficiency of reaching the objectives set by the PTD | Targeted surveys<br>Interviews<br>Workshops |
| | **III. Coherence** | | | |
| 9 | **Internal coherence: Are there any discrepancies and/or inconsistencies/ lack of coherence between the provisions of the PTD?** | / | Evidence from qualitative (legal) analysis – identification of provisions that conflict or contradict. | Desk research<br>Public consultation<br>Targeted surveys<br>Interviews<br>Workshops |

| | | | | |
|---|---|---|---|---|
| | | | Evidence from qualitative (legal) analysis – identification of provisions that may give rise to legal uncertainty.<br><br>Complementary issues spotted.<br><br>Stakeholders who agree that the provisions of the PTD are internally coherent.<br><br>Stakeholders' opinions on any discrepancies or inconsistencies between the provisions of the PTD. | |
| 10 | **External coherence: To what extent is the PTD coherent with wider EU policies, such as rules on free movement of services, fundamental rights, consumer rights, mutual recognition, competition, industrial policy, transport and mobility, environmental protection (sustainability), health and trade, digital policies?** | / | Evidence from analysis of the elements of the PTD which complement or overlap with other EU legislation with similar objectives. | Desk research (legal analysis). |
| **IV. EU added value** | | | | |
| 11 | **What is the added value resulting from the application of the PTD, compared to what could** | To what extent does regulating package travel at EU-level benefit traders and travellers? | Evidence from qualitative analysis.<br><br>Proportion of stakeholders who agree that the PTD has provided added value beyond | Desk research<br>Public consultation<br>Targeted surveys<br>Interviews |

| | | | | |
|---|---|---|---|---|
| | **reasonably have been expected from Member States acting at national and/or regional levels? What would be the most likely consequences of withdrawing the PTD?** | Does the PTD provide a high degree of protection for consumers/travellers in all MS, which would have not been achieved with the Member States acting individually?<br><br>Would the withdrawal of the PTD lead to regulatory gaps and divergences of standards? | what could have been achieved unilaterally by the Member States, or through bi-lateral or multi-lateral agreements between countries<br><br>Proportion of stakeholders who agree that the PTD has provided added value beyond what could have been achieved through voluntary or other non-legislative action<br><br>Examples identified through consultation with key stakeholders and literature review of where the Directive has provided added value compared to what could have been achieved by Member States acting on their own | Workshops |
| 12 | **To what extent do the issues addressed by the PTD continue to require action at EU level?** | Are there issues that require further action at EU level? | Evidence from qualitative analysis.<br><br>Proportion of stakeholders who agree that the issues addressed by the PTD continue to require action at EU level. | Desk research<br>Public consultation<br>Targeted surveys<br>Interviews<br>Workshops |
| **V. Relevance** | | | | |
| 13 | **To what extent do the initial objectives of the PTD still correspond to the current needs?** | How well adapted is the PTD to market trends, including in particular due to the constant expansion of sales by online intermediaries and the constant expansion of bookings on mobile devices? | Main market trends, including trends in the proportion of sales made by online intermediaries, proportion of bookings made on mobile devices, etc.<br><br>Current needs and comparison to needs at the time the Directive was adopted. | Desk research<br>Public consultation<br>Targeted surveys<br>Interviews<br>Workshops |

| | | | | |
|---|---|---|---|---|
| | | How well adapted is the PTD to crisis situations (taking into account the lessons learned from the Thomas Cook bankruptcy and the COVID-19 pandemic)? | Timeline of changing needs since the introduction / implementation of the Directive.<br><br>Stakeholders' opinions on the extent to which the initial objectives of the PTD still correspond to the current needs.<br><br>Stakeholders' opinions on the extent to which the PTD is well adapted to market trends, in particular to the expansion of sales by online intermediaries and the expansion of bookings on mobile devices.<br><br>Stakeholders' opinions on the performance of the PTD, including in time of crisis (e.g., during the Covid-19 pandemic and following the bankruptcy of Thomas Cook) | |
| 14 | **To what extent are key concepts of the PTD still fit for purpose?** | Is the concept of LTAs fit for purpose?<br><br>Are the 'click-through packages' relevant in practice? | Evidence from qualitative analysis. | Desk research<br>Public consultation<br>Targeted surveys<br>Interviews<br>Workshops |

## APPENDIX IV. OVERVIEW OF BENEFITS AND COSTS

| *Table 1. Overview of costs and benefits identified in the evaluation* | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | Citizens/Travellers | | Businesses | | Administrations[896] | |
| | | Quantitative | Comment | Quantitative | Comment | Quantitative | Comment |
| **Costs description:** | | | | | | | |
| **Direct adjustment costs** | **one-off** | - | - | Businesses also identified additional cost factors arising from the hiring of new staff (29%, 4 out of 14 respondents), the training of staff (79%, 11 out of 14 respondents) and the necessary purchase of IT equipment (57%, 8 out of 14 respondents).[897] Exact figures | | - EUR 97.000 (transposition costs for national enforcement authorities)<br><br>- EUR 5.500 (transposition costs for insolvency protection authorities)<br><br>- EUR 27.000 (staff training costs for national enforcement authorities) | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | were not provided. | | EUR 925 (staff training for insolvency protection authorities)<br><br>EUR 34.000 (equipment purchase costs for enforcement authorities)<br><br>EUR 25.000 (personnel costs for enforcement authorities | |
| **Enforcement costs:** | **recurrent** | - | - | - | - | EUR 116.000[898] | - |

[896] ICF study, section 3, sub-section 3.6.3.2. Data sourced from the targeted surveys reflecting median average of the reported amounts.
[897] Targeted survey – businesses (Q53). According to data from an interview, a company estimated EUR 9.000 per year in staff training to comply with rules on insurance. ICF study, section 3, sub-section 3.6.3.2
[898] Annually recurring cost per Member State

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| - Information requirements | **recurrent** | - | - | EUR 9.2 per package on average[899] | - The PTD determined moderate costs for the industry[900] | | |
| - Liability for the performance of the package, including compensation for improper performance and alternative arrangements | **recurrent** | - | - | EUR 25 per package on average[901] | - The PTD determined high or moderate costs for the industry[902] | | |
| - Assistance to travellers | **recurrent** | - | - | EUR 65.2 per package on average[903] | - The PTD determined moderate costs for the industry[904] | | |

[899] Targeted survey – businesses (Q49) = 5, including businesses associations. ICF study, section 3, sub-section 3.6.3.2

[900] Targeted survey – businesses (Q48) = 16, including businesses associations. 44% (7 of 16) indicated that information requirements determined moderate costs, 31% (5 of 16) indicated low costs and 25% (4 of 16) high costs.

In addition, the 2013 Impact Assessment had already emphasised how the evolution in the package market had made provisions in the 1990 PTD outdated and unclear, hence bringing unnecessary and unjustified costs. See Impact Assessment SWD (2013) 263 final, p. 15.

[901] Sourced from interview with businesses: only one stakeholder quantified the costs for liability of the performance of the package including compensations for improper performance and identified a 25 EUR

[902] Targeted survey – businesses (Q48) = 14, including businesses associations. 57% (8 of 14) indicated that the liability for the performance of the package, including compensation for improper performance and alternative arrangements determined high costs, 29% (4 of 14) indicated moderate costs and 14% (2 of 14) low costs.

[903] Targeted survey – businesses (Q52) = 5, including businesses associations.

[904] Targeted survey – businesses (Q48) = 15, including businesses associations. 40% (6 of 15) indicated that assistance to travellers determined moderate costs, 33% (5 of 15) indicated low costs and 27% (4 of 15) high costs.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| - Insolvency protection | **recurrent** | - | - | Costs can range annually from 2.500 EUR to 250.000 EUR[905] between the Member States[906] | - The PTD determined high or moderate costs for the industry[907] | | |
| **Indirect costs** | **One-off** | - | - | - | - | - | - |
| **Benefits description:** | | | | | | | |
| **Direct benefits** | | 91% of consumer organisations in the targeted survey consider that the current | | | In terms of its overall benefits, 73% of businesses responding to the targeted survey consider that the PTD has provided benefits to companies.[910] | - | Improved collaboration, between NCAs and other public authorities as well as |

[905] ICF study, section 3, sub-section 3.6.3.2 and Appendix 6

[906] According to data from interviews with business associations, reported insurance costs to businesses to cover insolvency protection, as percentage of annual turnover are 0.1% to 1.1% in Italy[906], 0.023% in Belgium[906], 0.06% to 0.26% in France. ICF study, section 3, sub-section 3.6.3.2

[907] Targeted survey – businesses (Q48) = 14, including businesses associations. 50% (7 of 14) indicated that insolvency determined high costs, 43% (6 of 14) indicated moderate costs and 7% (1 of 14) low costs.

[910] Targeted survey – businesses (Q56): 16 out of 22. Benefits to businesses also arise from further harmonisation of the rules and reduction of fragmentation of the internal market. ICF study, section 3, sub-section 3.6.3.2

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | PTD has provided benefits for travellers.[908]<br><br>The PTD "helps reduce damages to consumers by about €430 million a year […]ensuring transparency and high levels of<br><br>Protection against insolvency, | | | | | improved assistance to travellers.<br><br>The PTD improved harmonisation, enhanced transparency and strengthened legal certainty for both travellers and traders, also in cross-border transactions.[911] |

[908] Targeted survey – consumer organisations (Q41) = 10 of 11
Consumer organisations interviewed highlighted the importance of the transparency of rules that the PTD has introduced in terms of information provision to consumers as well as insolvency protection.

[911] In addition, the 2013 Impact Assessment showed that due to the fact that the 1990 Directive was based on minimum harmonisation, legal discrepancies appeared between Member States. This fragmentation generated additional compliance costs for businesses wishing to trade cross-border. 'Businesses that trade across borders have to pay about € 375 to research information about the Member State in which they want to get active. They also have to bear recurring costs of adapting their information materials to the requirements of different Member States. Taking into account the average number of EU companies which make cross-border sales, this translates into about additional €2 per package out of which €1.7 is a one-off cost. The overall baseline administrative burden associated with cross-border trade has been estimated at € 26 million (out of which €21m are one-off costs for researching Member States' differing national legal requirements and legal advice; €5.1m are recurring annual administrative costs)'. See Impact Assessment SWD (2013) 263 final, p. 17.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | cancellation and refund rights, right to pre-contractual and contractual information<br><br>consumer protection.[909] | | | | | |
| **Indirect benefits** | - | - | - | - | - | - | - |

## APPENDIX V. STAKEHOLDERS CONSULTATION - SYNOPSIS REPORT

See *Annex* 2: *Stakeholder consultation (Synopsis report)* to the Impact Assessment

[909] European Commission, Behavioural study […], p 10. Behavioural study on advertising and marketing practices in travel booking websites and apps, https://op.europa.eu/en/publication-detail/-/publication/d79a2522-ddd4-11ea-adf7-01aa75ed71a1

## APPENDIX VI. PRESENTATION OF THE PACKAGE TRAVEL DIRECTIVE

### I. Overview of the Package Travel Directive

- **Date of application**

Directive (EU) 2015/2302 ('the Package Travel Directive', 'the Directive', 'the 2015 Directive' or 'the PTD') had to be transposed by the Member States by 1 January 2018. It started applying on 1 July 2018.[912]

The 2015 Directive repealed Directive 90/314/EEC ('the 1990 Directive') with effect from 1 July 2018.[913] It was incorporated into the European Economic Area Agreement on 22 September 2017.

- **Aim**

The Directive aims 'to contribute to the **proper functioning of the internal market** and to the achievement of **a high and as uniform as possible level of consumer protection** by approximating certain aspects of the laws, regulations and administrative provisions of the Member States in respect of contracts between travellers and traders relating to **package travel** and **linked travel arrangements**.'[914]

The current Directive, unlike the repealed 1990 PTD, is a full harmonisation directive (Article 4). Still, it gives the Member States regulatory options in a few specific respects (e.g., regarding the full liability of retailers in addition to the liability of organisers).

- **Scope**

The Directive applies to:
- packages offered for sale or sold by traders to travellers;
- to linked travel arrangements facilitated by traders for travellers.

The Directive does not apply to travel arrangements:
- covering less than 24 hours, unless an overnight stay is included;
- offered occasionally, on a not-for-profit basis and only to a limited group of travellers;
- purchased as part of a general agreement for travel relating to a business or profession.[915]

- **Main features of the 2015 Directive**

Key terms

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[912] Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, (OJ L 326, 11.12.2015, p. 1–33); https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L2302#:~:text=Directive%20%28EU%29%202015%2F2302%20of%20the%20European%20Parliament%20and,of%20the%20Council%20and%20repealing%20Council%20Directive%2090%2F314%2FEEC

[913] Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ L 158, 23.6.1990, p. 59–64); EUR-Lex - 31990L0314 - EN - EUR-Lex (europa.eu)

[914] Article 1

[915] Article 2

The concept of **packages** already existed in the 1990 Directive, but it is broader under the 2015 Directive, going beyond pre-arranged combinations of travel services.

Under Article 3(2) of the Directive, packages are:
- a combination of at least two different types of travel service (e.g., a flight or rail trip combined with hotel accommodation):
  - pre-arranged or customised, as part of the same trip, sold by one trader and a single contract is concluded

*or*

  - irrespective of whether separate contracts are concluded with individual traders, if one of the following is met:
    - the combination was purchased from a single point of sale and the travel services have been selected before the traveller agrees to pay, within the same booking process[916]
    - it was offered, sold or charged at an inclusive or total price,
    - advertised or sold under the term 'package' or under a similar term,
    - combined after the conclusion of a contract which entitled the traveller to choose among a selection of travel services (i.e., travel gift boxes)
    - *click-through packages:* combinations purchased from separate traders through linked online booking processes where the traveller's name, payment details and e-mail address are transmitted from the trader with whom the first contract is concluded to another trader or traders and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.

A new concept was introduced: **linked travel arrangement (LTA**) as a category between packages and mere stand-alone services.
Under Article 3(5), there is a linked travel arrangement where at least two different types of travel services are purchased for the same trip or holiday, usually under separate contracts with the individual travel service providers and if, in addition, the conditions of letters (a) or (b) are met.

Under letter (a) the bookings of the travel services must take place on the occasion of a single visit or contact with a point of sale (online or off-line) and the services are selected and paid for separately;
*or*
Under letter (b) the booking of a second service is facilitated in a targeted manner and the contracts for additional travel services are concluded within 24 hours from the confirmation of the booking of the first travel service.

There can be no LTA if the criteria of a package are met.

*Other relevant terms:*
**Travel services** include
- carriage of passengers,
- accommodation that is not intrinsically part of carriage of passengers and is not for residential purposes,
-rental of cars and of other motor vehicles,

[916] Recital 10

-any other tourist service[917] not intrinsically part of a travel service mentioned earlier.[918]

If other tourist services are combined with a travel service, for instance accommodation, this leads to the creation of a package or linked travel arrangement only if the tourist services account for a significant proportion of the value of the package or linked travel arrangement, or are advertised as or otherwise represent an essential feature of the trip or holiday. 'If other tourist services account for 25 % or more of the value of the combination, those services should be considered as representing a significant proportion of the value of the package or linked travel arrangement.'[919]

**Organiser** is a 'trader who combines and sells or offers for sale packages, either directly or through another trader or together with another trader, or the trader who transmits the traveller's data to another trader' in the case of click-through packages.[920]

**Retailer** is 'a trader other than the organiser who sells or offers for sale packages combined by an organiser'.[921]

**Traveller** is **'**any person who is seeking to conclude a contract, or is entitled to travel on the basis of a contract concluded, within the scope of this Directive'.[922]

**Unavoidable and extraordinary circumstances** are situations beyond the control of the party who invokes them 'and the consequences of which could not have been avoided even if all reasonable measures had been taken'. 'This may cover for example warfare, other serious security problems such as terrorism, significant risks to human health such as the outbreak of a serious disease at the travel destination, or natural disasters such as floods, earthquakes or weather conditions which make it impossible to travel safely to the destination as agreed in the package travel contract'.[923]

Key rights

- **Pre-contractual and contractual information** of travellers

***For Packages***

Organisers or retailers must provide to the traveller **information** on the main characteristics of packages and rights of travellers, inter alia through a standardised information form **prior to conclusion of the contract**.

**The standardised information form** includes information on:
- the fact that the combination of travel services constitutes a package;
- the identity and the liability of the organiser (and, where appropriate, the retailer) for the performance of the package travel contract.;

[917] Recital 18: 'Other tourist services which are not intrinsically part of carriage of passengers, accommodation or the rental of motor vehicles or certain motorcycles, may be, for instance, admission to concerts, sport events, excursions or event parks, guided tours, ski passes and rental of sports equipment such as skiing equipment, or spa treatments.'
[918] Article 3(1)
[919] Recital 18
[920] Article 3(8)
[921] Article 3(9)
[922] Article 3(6)
[923] Recital 31

- the fact that insolvency protection is in place (including the right to the refund of payments and the right to repatriation where carriage of passengers is included)
- contact details of the insolvency protection entity
- key rights of package travellers.

After booking, **the package travel contract** must be provided on a durable medium. It must contain the full content of the agreement.

***For LTAs***
**Prior to conclusion of the contract**(s), traders must inform travellers, through one of five available forms, on:
- the fact that the traveller does not benefit from the rights applying to packages **and that each service provider is responsible for his service,**
- the conditions under which travel services become an LTA (*if the traveller books an additional travel service during the same visit*)
- information on insolvency protection

**<u>Some important rights in relation to packages</u>**

- **Price changes** (Article 10)

8% cap for possible price increases by the trader, beyond which travellers have the right to cancel the package free of charge.

Price increases are only allowed if the contract expressly reserves that possibility and if they directly result from:
- the cost of fuel or other power sources;
- third-party tax or fee increases;
- exchange rates.

Any price increase should be notified at least 20 days before the start of the package.
If the contract reserves the possibility of price increase, the organiser also has to grant price reductions where relevant.

- **The right of travellers to a full refund of any payments in the event of cancellation of the contract under certain conditions**

- If, before the start of the package, the organiser is constrained to alter significantly any of the main characteristics of the travel services or cannot fulfil the special requirements or proposes to increase the price of the package by more than 8 %, the traveller may within a reasonable period specified by the organiser (a) accept the proposed change, or (b) terminate the contract without paying a termination fee. (Article 11(2))

- If the traveller does not accept a substitute package, the organiser shall refund all payments made by or on behalf of the traveller without undue delay and in any event not later than 14 days after the contract is terminated. (Article 11(5))
- If the traveller or the organiser cancel the contract before departure in the event of 'unavoidable and extraordinary circumstances', such as natural disasters, war, or other serious situations at the destination, otherwise cancellation against compensation. (Article 12(2) and (3))

- Clear identification of the liable party for the performance of the contract (Article 13, Article 16 and Article 20 plus the forms in Appendix 1)

- Liability of the organiser of the package for all included travel services across the EU; Member States may decide whether the retailer is jointly liable.
- If the organiser is established outside of EEA, the EU retailer is subject to the obligations laid down for organisers if the organiser does not comply.
- The organiser is obliged to offer suitable alternative arrangements, if impossible, provide repatriation and accommodation for three nights
- The organiser is obliged to provide assistance without undue delay to a traveller in difficulty.

- **Insolvency protection** ((Article 17, Article 18 and Article 19)

- Insolvency protection requirements for package organisers and LTA facilitators
- The insolvency protection covers: (a) refunds without undue delay if a service is not performed; (b) repatriation, and if necessary, accommodation, where carriage of passengers is included in package; for LTAs, repatriation if the facilitator is responsible for the carriage of passengers
- Mutual recognition of insolvency protection of insolvency protection and administrative cooperation. Any insolvency protection an organiser provides in accordance with the measures in the Member State of its establishment have to be recognised by any other Member State. To facilitate the administrative cooperation and supervision of organisers operating in different Member States, Member States must designate central contact points.

## II. Transposition and implementation

According to Article 28(1), Member States were required to transpose the PTD by 1 January 2018. The Commission opened infringement procedures for non-communication of national transposition measures against 14 Member States. Two Member States transposed the Directive only after the Commission had issued a reasoned opinion pursuant to Article 258 of the TFEU. By March 2019, all Member States had notified the Commission of the complete transposition of the Directive.[924]

Potential non-conformity issues on different aspects of the Directive may exist, to a different extent, in all Member States, particularly in relation to definitions (including the main concepts), pre-contractual information requirements, travellers' termination rights and termination fees, liability for lack of or improper performance of the contract, the obligations of traders facilitating LTAs, liability for booking errors, and the effectiveness of the transposition regarding insolvency protection.[925] The Member States were obliged to apply the rules transposing the PTD from 1 July 2018.

After this date, Member States and some EEA countries[926] adopted further measures in relation to the PTD.[927] Several Member States adopted *temporary rules deviating from the PTD*, 15 of them giving package organisers the possibility to significantly extend the periods for reimbursements or make vouchers mandatory for travellers. In July 2020, the

[924] PTD application report, p. 3.
[925] Ibidem, p. 3 and 4.
[926] E.g., Norway, Iceland. No relevant information was identified in Lichtenstein.
[927] The national transposition measures in all Member States are publicly available at: https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32015L2302.
In addition, Appendix VIII to this SWD presents the measures adopted by the MS/EEA countries since July 2018.

Commission opened infringement proceedings against 11 Member States.[928] The infringement proceedings were closed after the relevant Member States repealed the legislation deviating from the PTD or after the relevant measures had expired. On 8 June 2023, the Court of Justice of the European Union (CJEU) confirmed the Commission's interpretation in the one remaining infringement case and in a preliminary ruling.[929] The CJEU confirmed that the PTD aims at full harmonisation[930] and that the term 'refund' in the PTD implies a refund consisting in an amount of money which travellers can dispose of freely and does not include the idea of a voucher.[931] The CJEU concluded that the Member States were not allowed to adopt national legislation releasing organisers temporarily from the obligation to reimburse prepayments to travellers within 14 days of the termination of the contract.[932]

There were also aid schemes to provide support to transport and travel businesses, including guarantee schemes in the event of their insolvency as well as refunds to travellers in the event of cancellations.

[928] See Commission's press communications of 2 July and 30 October 2020 (under point 5 – Justice): https://ec.europa.eu/commission/presscorner/detail/en/INF_20_1212 and https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687

[929] Case C-407/21, ECLI:EU:C:2023:449, CURIA - List of results (europa.eu) and Case C-540/21, ECLI:EU:C:2023:450, CURIA - List of results (europa.eu)

[930] Case C-407/21, ECLI:EU:C:2023:449, paragraph 59, Case C-540/21, ECLI:EU:C:2023:450, paragraph 23

[931] Case C-407/21, ECLI:EU:C:2023:449, paragraphs 30 and 33 and Case C-540/21, ECLI:EU:C:2023:450, paragraph 69

[932] Case C-407/21, ECLI:EU:C:2023:449, paragraph 76

## APPENDIX VII. LINKED TRAVEL ARRANGEMENTS

The evaluation identified interpretational and enforcement difficulties that could be grouped in two main categories: lack of clarity in key elements of the definition of LTA types (a) and (b) and unclear delimitation between packages and LTAs.

**A)** Lack of clarity in key elements of the definition of LTA types (a) and (b)

Key concepts of the definition of 'linked travel arrangement' lack clarity and would benefit from further clarifications, according to national authorities, businesses (package travel sector, airlines, and private insolvency protection funds), and consumer organisations.

The following elements have been indicated as the most challenging in terms of interpretation and implementation in practice: - notion of 'facilitation by a trader' (related to both LTA types (a) and (b)), - 'single visit' (related to LTA type (a)), - 'facilitation in a targeted manner' (LTA type (b)), - 'the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after the confirmation of the booking of the first travel service' (LTA type (b)).

**B)** Unclear delimitation between packages and LTAs

The distinction between certain packages and certain LTAs can be difficult.[933] A travel agent who books a flight and a hotel for a customer for the same trip or holiday and issues one invoice for both services sells a package. When the same services were selected separately, the travel agent that books them one after the other and does not charge a total price facilitates an LTA.[934]

According to stakeholders, it was difficult for travellers and enforcement authorities to distinguish whether the services were selected jointly (package) or separately (LTA).[935] The uncertain boundaries between packages and LTAs, but also between LTAs and single travel services, made the respective definitions of 'package' and 'linked travel arrangements' difficult to implement in practice. This is likely to have contributed to the fact that stakeholders - businesses, consumers or public authorities - have not been able to properly identify this type of combination of travel services and hence detect any LTA or LTA-related issues in practice. [936]

[933] See flowchart "Package travel or not?" at https://commission.europa.eu/document/653055bf-a1ae-4280-a26d-bf7142fccfa9_en

[934] COM(2021) 90 final, p. 5.

[935] Public Consultation (26a): 70% (191 out of 273) respondents declared that 'the distinction of whether the services were selected jointly (package) or separately (LTA) is difficult to verify for travellers and enforcement authorities'.

[936] This issue was reiterated almost unanimously everywhere in the data collection by stakeholders of all types.

## APPENDIX VIII. MEASURES ADOPTED BY THE MEMBER STATES/EEA COUNTRIES SINCE JULY 2018

| LEGISLATIVE AND OTHER MEASURES ADOPTED IN MS SINCE JULY 2018 | | | | |
|---|---|---|---|---|
| **MS/EEA countries** | **New measures since July 2018** | **Typology of the measures** | **References** | **Comments on the measures** |
| **AT** | **YES** | Legislative measure | Temporary legislative measure to face the Covid-19 emergency: two amendments in 2020 and 2021 (*600. Verordnung der Bundesministerin für Digitalisierung und Wirtschaftsstandort, mit der die Verordnung über Pauschalreisen und verbundene Reiseleistungen (Pauschalreiseverordnung – PRV*and *575. Verordnung der Bundesministerin für Digitalisierung und Wirtschaftsstandort, mit der die Verordnung über Pauschalreisen und verbundene Reiseleistungen (Pauschalreiseverordnung – PRV) for 2021*) to Travel Package Ordinance (*Verordnung der Bundesministerin für Digitalisierung und Wirtschaftsstandort über Pauschalreisen und verbundene Reiseleistungen (Pauschalreiseverordnung – PRV*)) | During the Covid-19 crisis, the government decided that the state, via the Austrian Tourism bank (ÖHT), should provide an insurance (for which the state is the guarantor) to SME travel organisers, in accordance with § 3 Para. 3 Z 2 PRV. The State intervention was necessary given the withdrawal of banks and insurance providers from package travel insurance and the difficulties for package travel organisers and facilitators of linked travel services to find affordable guarantees on the market. Since June 15, 2022, no new applications for ÖHT insolvency protection can be submitted. The term of the issued declarations of liability ended on December 31, 2022. |
| **BE** | **YES** | Soft-law measure<br>Administrative measure | Non-binding Guidelines on the application and scope of the transposition measure (*Guidelines Loi du 21 novembre de relative à 2017 la vente de voyages à forfait, prestations de voyage liées et de services de voyage*)<br>Temporary legislative measure to face Covid-19 emergency: Ministerial Order on vouchers (*Arrêté* | The objective of the Guidelines was to provide a framework for the practical application of the law and to specify and explain to stakeholders how to best comply with the law.<br><br>Ministerial Order introduced rules on vouchers issued due to the Covid-19 emergency (with validity from the 20th of March 2020 until the 19th June 2020). The vouchers had a minimum validity period of one year and when |

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| | | | *ministériel du 19 Mars 2020 relatif aux activités à caractère privé ou public, de nature culturelle, sociale, festive, folklorique, sportive et recreative*). | not used by this period, consumers had a right to a monetary reimbursement. However, tour operators and organisers were granted an additional six-month period to proceed with the monetary reimbursement. |
| **BG** | **YES** | Legislative measures<br>Soft-law measure | Minor amendments to the Tourism Act in the parts transposing the PTD, with no or very limited impact on the transposition of the PTD.<br>Temporary measure to face the Covid-19 emergency: Article 25 of the Act on the measures and actions during the emergency state, declared with a decision of the Parliament on 13 March 2020 and for overcoming its consequences (*Закон за мерките и действията по време на извънредното положение, обявено с решение на народното събрание от 13 март 2020 г. и за преодоляване на последиците*), promulgated State Gazette No 28 of 24 March 2020, last amended State Gazette, No 32 of 2022.<br>Ministry of Tourism (2021), Guidelines for application for financial support for tour organisers and traders for compensation of loss due to Covid-19 (*Насоки за кандидатстване по схемата за предоставяне на безвъзмездни финансови* | Article 79(5) (about school and children's package travels)[937] and Article 79a (about tour operators)[938] of the Tourism Act are amended. Finally, Article 75 of the Act to amend and supplement the Tourism Act introduced the obligation for the Commission for consumer protection to apply an administrative measure of 'suspension of any activity' upon non-conclusion of the insurance contract by a tour operator facilitating LTAs.<br><br>In the context of the Covid-19 emergency, it introduces the possibility for the tour operators to reimburse a traveller for a trip cancelled due to Covid-19 to offer a voucher for the amount paid and extended the period for repayment from 14 days to 1 year after the cancellation made by the organizer. The measure was applicable for the period from the 13 March 2020 until the state of emergency was lifted. In addition, the government provided financial aid for the repayment to the travellers for their cancelled travels.<br><br>The objective of the guidelines is to provide guidance to organisers and traders on how to get compensation of the loss suffered during Covid-19 crisis. |

[937] The amendment is due to the revision of the Act on bus transportation (Act to amend and supplement the Road Transport Act (*Закон за изменение и допълнение на Закона за автомобилните превози*), promulgated SG No. 60 of 07 July 2020). It clarifies that any travel should take place between 6.00 and 21.00 instead of "daylight hours".

[938] Obligation for tour operators to conclude – directly or via a travel agent – a contract for the travel package before its implementation, for an average period of 2 years.

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| | | | *средства на туроператори и туристически агенти за компенсиране на загуби в резултат от COVID-19*) | |
| **CY** | **YES** | Legislative measure | Temporary legislative measure to face Covid-19 emergency: Law No. 59(I)/2020 in May 2020[939] | It establishes temporary measures allowing the use of vouchers for cancelled package holiday contracts instead of the refund in cash in case of cancellation due to the COVID-19 emergency. The vouchers could be used by the consumer until 31 December 2021. If at the end of the validity period consumers have not used the voucher, they can ask for a monetary reimbursement. It establishes the obligations of the organizers to provide insurance coverage and/or bank guarantee for the vouchers.<br>The vouchers for cancelled package holidays are covered against insolvency by the Cypriot Government, complementing private guarantors. |
| **CZ** | **YES** | Legislative measures | Temporary legislative measure to face Covid-19 emergency: *Lex Voucher* - 185/2020 Coll.<br>Legislative measure on insolvency protection: *Lex Covid* - 191/2020 Coll.<br>Temporary legislative measure to face Covid-19 emergency: Act No. 189/2020 Coll.<br>Temporary legislative measure to face Covid-19 emergency: Financial programme of the Ministry of Industry and Trade[940] | It regulates the possibility for organisers to provide travellers with vouchers instead of refunds in money due to the cancellation of contracts that should be executed between the 20 February and the 31 August 2020 by both the traveller or the organizer, due to unavoidable and extraordinary circumstances.<br>It deals with this issue indirectly and mainly regulates the options in case of insolvency.<br>In connection with the Covid-19 pandemic, an amendment to Act No. 159/1999 Coll. was adopted in relation to trades acting in the capacity of |

[939] In July 2020 the European Commission launched an infringement procedure against Cyprus for not complying with the EU Recommendation on vouchers. The procedure was closed in October 2020.

[940] Available at: https://www.mpo.cz/cz/rozcestnik/informace-o-koronavirus/covid-2022---sektorova-podpora--266644/

| LEGISLATIVE AND OTHER MEASURES ADOPTED IN MS SINCE JULY 2018 | | | | |
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| | | | | travel service provider (e.g. Airbnb). In the case of online mediation of the conclusion of a travel service contract, at the request of the municipal trade office, to provide information on the mediated services, including the type and scope of the mediated services and the identification of the persons who provided the mediated services to the travellers.<br>Financial programme to support small and medium-sized organisers to help them take out statutory insolvency protection insurance during the COVID-19 emergency. |
| **DE** | **YES** | Legislative measures | Temporary legislative measure to face Covid-19 emergency: Act to Mitigate the Consequences of the COVID-19 Pandemic in Package Travel Contract Law and to Ensure the Functioning of the Chambers in the Area of the Federal Lawyers' Act, the Federal Notaries' Act, the Auditors' Act and the Tax Consultancy Act During the COVID 19 Pandemic {*Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie im Pauschalreisevertragsrecht und zur Sicherstellung der Funktionsfähigkeit der Kammern im Bereich der Bundesrechtsanwaltsordnung, der Bundesnotarordnung, der Wirtschaftsprüferordnung und des Steuerberatungsgesetzes während der COVID-19-Pandemie (COVFRAG*)<br><br>Act on Insolvency Protection through Travel Insurance Funds (*Reisesicherungsfondsgesetz - RSG*), 25 June 2021 | It establishes rules valid during the Covid-19 pandemic. These rules concerned all travels paid for prior to 8 March 2020. The rules introduced an option for travel organisers to offer to travellers a voluntary voucher in case that the travel was cancelled due to the Covid 19 pandemic (for both sides – in case of the traveller and the organiser). The vouchers were also guaranteed by the state in case of insolvency of the travel organiser. Vouchers for travel packages booked after 8 March 2020 were not guaranteed.<br><br>It changed the requirements to ensure effectively that payments can be reimbursed in case of insolvency of the travel organiser. It set up a new Travel Insurance Fund (*Reisesicherungsfonds*). |
| **DK** | **YES** | Legislative measures | Legislative measure to face the Covid-emergency: Act nr 326 of 31/03/2020 (LOV nr 326 af 31/03/2020) | It expands the scope of the travel guarantee fund to provide protection for travellers also in cases where a package tour has been cancelled by the travel |

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| **MS/EEA countries** | **New measures since July 2018** | **Typology of the measures** | **References** | **Comments on the measures** |
| | | | Legislative measure to face the Covid-emergency: Act nr 612 of 14/05/2020 (LOV nr 612 af 14/05/2020)<br>Legislative measure to face the Covid-emergency: Act nr 1054 of 30/06/2020 (LOV nr 1054 af 30/06/2020) | provider or by the traveller due to 'extraordinary situations affecting significant parts of the travel industry'.<br>It enables travel providers and intermediaries to receive protection from the travel guarantee fund, where they are forced to interrupt a package tour as a result of extraordinary situations affecting significant parts of the industry, and they would be obliged under the Act on package travel and linked travel arrangement' (APT) to grant the traveller a full or partial reduction in the price or to pay for additional costs for home transport.<br>It empowers the Minister of Trade and Industry to issue rules on the provision of subsidies to travel providers and intermediaries. |
| **EE** | **YES** | Legislative measures | Amendments to the Estonian Tourism Act with no impact on the transposition of the PTD | There have been amendments to the Tourism Act (entering into force on 1 January 2019) because the Consumer Protection Board was joined with another state authority. All the changes of the Tourism Act are due to the fact that the Tourism Act now correctly refers to the Consumer Protection and Technical Regulatory Authority (Tarbijakaitse ja Tehnilise Järelevalve Amet). |
| **EL** | **YES** | Legislative measure | Temporary legislative measure to face the covid-19 emergency: Act of legislative content n. 84 of 13 April 2020, as ratified by Law 4960/2020 and amended by Law 4722/2020. | It provides exceptions to the rights and obligations of consumers and tourism businesses about the possibility to issue vouchers in case of termination of a contract in the context of the covid-19 pandemic. The act regulates business-to-consumer and business-to-business issues. |
| **ES** | **YES** | Legislative measures | Legislative measure to face the consequences of the bankruptcy of Thomas Cook: Royal Decree law 12/2019, 11 October 2019.<br><br>Temporary legislative measure to face the Covid-19 pandemic: Royal Decree 11/2020, 31 March 2010, | It introduced urgent measures to alleviate the effects of the opening of insolvency proceedings against the corporate group Thomas Cook. Among other things, it created a credit line with Thomas Cook defaults, a State Financial Fund for Tourism Competitiveness, coordination policies in the field of employment between the central state and the Autonomous Regions and other support and information measures for those directly affected by the |

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| | | | Legislative measure amending temporary legislative measure: Royal Decree-law 21/2020, 9 June 2020.<br><br>It has to be noted that the insolvency protection system in Spain is under the competence of the Autonomous Regions. Legislation at regional level has been modified in several Autonomous Regions since the application date of the PTD. Currently, in some parts of the territory a system based on securities that are directly enforceable by the traveller exists, whereas there are still few regions that require the provisions of 'bonds' to the treasury administrations, not allowing the travellers to enforce their rights prior to a formal decision (e.g. judgement or arbitration award). | Thomas Cook crisis.<br><br>It adopted additional urgent social and economic measures to address COVID-19. It allowed organisers of travel packages to issue a voucher instead of reimbursing the payment received by the traveller. This was possible in cases where the organiser could prove that it had not received the necessary reimbursements from other service providers in order to pay the refund to the traveller.<br><br>It provided that the acceptance of the vouchers had to be on a voluntary basis by the traveller. |
| **FI** | **YES** | Legislative measures | Temporary measure to face the Covid-19 emergency: Act on providers of combined travel services, 921/2017 (*Laki matkapalveluyhdistelmien tarjoajista, Riksdagen*), 1 July 2018 (MPT), Chapter 2, Section 10a<br><br>Temporary measure to face the Covid-19 emergency: Two amendments (act 870/2021 and act 241/2022) to the MTM act 922/917 (*Lag om en tillsyns- och insolvensskyddsavgift för leverantörer av kombinerade resetjänster*) – Section 5a | Introduced in 2020 as a temporary measure (in place between the 26 October 2020 and 31 December 2022) to enable travellers to be reimbursed by the Government in case of cancellations which are due to unavoidable and extraordinary circumstances caused by the Covid-19 epidemic.<br><br>Inserting a temporary Section 5a into the MTM, by which the fee for the insolvency protection scheme was waived in 2020 and 2021 respectively. |

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| **FR** | **YES** | Administrative measure | Temporary measure to face the Covid-19 emergency: Ordinance n°2020-315, 25 March 2020. | It is related to extraordinary circumstances. The ordinance provides that when a travel contract is cancelled between the 1 March 2020 and 15 September 2020, the organiser may offer, instead of a money, a voucher of equal value, with a validity period of 18 months. If the voucher is not used or partially used by consumers, they will be able to ask for the whole monetary reimbursement or the remaining price difference for the unused part at the end of the validity period. |
| **HR** | **YES** | Legislative measures | Temporary measure to face the Covid-19 emergency: Act amending the Act on Provision of Tourism Services (*Zakon o izmjenama i dopunama Zakona o pružanju usluga u turizmu*), National Gazette (*Narodne novine*) No. 42/2020 (Article 38a).<br>Legislative measure adopted to repeal previous legislation: Act amending the Act on Provision of Tourism Services (*Zakon o izmjenama i dopunama Zakona o pružanju usluga u turizmu*), National Gazette No. 70/2021. | Article 38a regulates rights and obligations of the parties to the package travel contract in case of non-performance of contract due to COVID-19 pandemic (with respect to all package travel contracts that were to be performed after 1 March 2020). Organisers can issue vouchers to travellers. Should a traveller decide to exercise their right to rescind the contract, the organiser is bound to make a refund of any payments made by the consumer within 14 days after the expiry of 180 days following the cessation of special circumstances. The voucher is covered by insolvency protection mechanism agreed for the package travel in question.<br>It has repealed Article 38a introduced by Act No. 42/2020. |
| **HU** | **YES** | Legislative measure | Temporary measure to face the Covid-19 emergency: Government Decree No. 242/2020. | It introduced special rules applicable for package travel contracts during the Covid-19 emergency. In these cases, instead of the repayment of the fee or advance paid for the travel package, the tour operator could issue a voucher. If the traveller did not accept the voucher, the organiser had to refund all pre-payments made by the traveller.<br>The financial coverage defined in Section 6/F(2)(d) of Act CLXIV of 2005 on Commerce covers the amount satisfactory for the repayment of the vouchers issued under the aforementioned decree in case of the insolvency of the tour operator. |

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| **IS** | **YES** | Legislative measures | Legislative measure implementing the PTD: Act 21/2020 (entered into force on 21 March 2020).<br><br>Temporary legislative measure to face the Covid-19 emergency: Act 78/2020 (entered into force on 17 July 2020).<br><br>Temporary legislative measure to face the Covid-19 emergency: Act 111/2020 (entered into force on 17 September 2020).<br><br>Legislative measure implementing the PTD: Act 91/2021 (entered into force on 8 July 2021). | It amended the role of the Tourist Board in supervision and enforcement of the Act on package tours and interconnected travel arrangements (LSPF), providing some additional powers.<br><br>It introduced temporary measures to address the negative effects of the Covid-19 pandemic on the activities of organisers or retailers and to safeguard the interests of consumers. This included the establishment of a Travel Liability Fund, which enables travel organisers to receive loans for an amount equal to any unpaid reimbursement claims, under the condition that the loans are used exclusively to reimburse legally justified reimbursement claims by travellers.<br><br>It extended deadlines set out in the temporary measures introduced by Act 78/2020.<br><br>It amended provisions regulating the administration of the Travel Insurance Fund. |
| **IE** | **YES** | Legislative measures | Legislative measure implementing the PTD: S.I. No. 80 of 2019 European Union (Package Travel and Linked Travel Arrangements) Regulations 2019<br><br>Legislative measure implementing the PTD: S.I. No 105 of 2019 European Union (Package Travel and Linked Travel Arrangements) (No. 2) Regulations 2019<br><br>Temporary measure to face Covid-19 emergency: S.I. No 218 of 2020 Transport (Tour Operators and Travel | It implements the PTD into national legislation.<br><br>It amends Schedules 1-4, the Standard information forms and the template terms of security to be provided by an organizer or trader and guaranteed by a bank.<br>It establishes the meaning and refund conditions for voluntary refund credit notes issued by a tour operator or travel agent to a customer in respect of the cancellation due to Covid-19 of an overseas travel contract.<br>It amends several definitions and establishes the Travellers' Protection Fund, to reimburse customers. It also defines in extenso what the Fund covers.<br>It covers payments from the Travellers' Protection Fund made to a customer who holds a refund credit note where the tour operator or travel agent is |

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| | | | Agents) Act 1982 (Disbursements from Fund) Regulations 2020<br><br>Temporary measure to face Covid-19 emergency: S.I. No 219 of 2020 European Union (Package Travel) Regulations 2020<br><br>Temporary measure to face Covid-19 emergency: S.I. No 105 of 2021 Transport (Tour Operators and Travel Agents) Act, 1982, (Disbursements from Fund) Regulations 2021.<br><br>Temporary measure to face Covid-19 emergency: S.I. No 290 of 2021 Transport (Tour Operators and Travel Agents) Act, 1982, (Claims by Customers) Regulations, 2021. | unable or fails to meet the financial or contractual obligations owed to the customer under the refund credit note concerned.<br>It extends from 60 to 120 days the time period within which a customer may make a claim for refund of monies paid or for the reimbursement of reasonable expenses incurred as a result of the inability or failure of the tour operator or travel agent to meet his financial or contractual obligations concerning an overseas travel to which the Regulations apply. |
| **IT** | **YES** | Legislative measures | Temporary legislative measure to face the Covid-19 emergency: Law Decree No. 18, 17 March 2020.<br>Temporary legislative measure to face the Covid-19 emergency: Law Decree No. 34, 19 May 2020.<br>Legislative measure amending Law Decree No. 18, 17 March 2020: Law No. 77, 17 July 2020.<br>Legislative measure amending Law Decree No. 18, 17 March 2020: Decree Law No. 160, 10 September 2021, converted with amendments in Law n. 27, 24 April 2020<br>Temporary legislative measure to face the Covid-19 emergency: Law No. 69, 21 May 2021. | Article 88-*bis* of this Law has derogated to the discipline provided in Article 41 of Legislative Decree No 79 of 23 May 2011 on the right to cancel the package contract before the beginning of the package travel. It contains a series of provisions concerning the reimbursement of travel tickets and packages cancelled because of the COVID-19 crisis.<br>Article 182 (3-*bis*) of Law Decree No. 34 of 19 May 2020 established a fund for the compensation of consumers holding vouchers issued pursuant to Article 88-*bis* of Law Decree No. 18 of 17 March 2020, not used by the end of their validity, and not reimbursed due to insolvency or bankruptcy of the tour operator or carrier. Article 182(1) of the same Law has foreseen direct subsidies to tour operators and travel agencies to compensate for losses by establishing a fund. |

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| | | | Temporary legislative measure to face the Covid-19 emergency: Decree No. 228, 30 December of 2021, converted with amendments in Law No. 15, 25 March 2022. | It intervened on the topic of vouchers. First, the validity period of vouchers is prolonged to 18 months. Second, in the cases indicated, vouchers can be used for services taking place after the final term of validity as long as those services are booked within the validity term of the voucher. Thirdly, after 18 months from their issuing, vouchers not used or not used to book services are refunded within fourteen days of expiry.<br>Another area of intervention concerns the times within which the withdrawal from contracts must be exercised by the operator or by the customer in the cases provided for by the law.<br>The Decree Law No. 160, 10 September 2021, converted in Law n. 27, 24 April 2020, established the criteria for the utilisation of the guarantee fund created by Article 88-*bis* (12-ter) of Law Decree No. 18, 17 March 2020, as amended by Law No. 27 of 24 April 2020, as well as the coverage of vouchers against insolvency.<br>Law No. 69 of 21 May 2021 has extended the validity of vouchers to 24 months.<br>Decree No. 228 of 30 December 2021, converted with modifications in Law No 15 od 25 March 2022, has extended the validity of vouchers from 24 to 30 months. |
| **LT** | **YES** | Legislative measures | Legislative measure implementing the PTD: Order No. V-132 (2018) of the Director of the State Department of Tourism under the Ministry of the Economy of the Republic of Lithuania on approval of the Standard Terms and Conditions for Package Travel Contracts.<br>Legislative measure implementing the PTD: Order No. V-133 (2018) of the Director of the State Department of Tourism under the Ministry of the | It established standard terms and conditions for package travel contracts.<br>It established standard information forms.<br>It established standard information forms after the enforcement of package travel was assigned to SCRPA's competence.<br>It established standard terms and conditions for package travel contracts after the enforcement of package travel was assigned to State Consumer Rights Protection Authority's (SCRPA) competence.<br>It introduced amendments to the Description that have been enacted transposing the PTD. |

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| | | | Economy of the Republic of Lithuania on approval of Standard Information Forms.<br>Legislative measure implementing the PTD: Order No. 1-58 (2018) of the Director of the State Consumer Rights Protection Authority on approval of Standard Information Forms.<br>Legislative measure implementing the PTD: Order No. 1-57 of the Director of the State Consumer Rights Protection Authority (SCRPA) [*'Valstybinė vartotojų teisių apsaugos tarnyba'*] on approval of Standard Terms and Conditions for Package Travel Contracts.<br>Legislative measure clarifying/implementing the PTD: Resolution of the Government of the Republic of Lithuania No 756 on the Description of the Procedure for Ensuring the Fulfilment of Obligations of a Tour organiser.<br>Temporary legislative measure to face the Covid-19 emergency: Law on amending Articles 2, 15 of the Law on Tourism and adding Article 17-1 to the Law.<br>Legislative measure clarifying/implementing the PTD: Resolution No 697 on amendments to the Government of the Republic of Lithuania No 756 "On the approval of the description of the procedure for securing the fulfilment of the obligations of a tour organiser and a seller of a package of tourist services".<br>Temporary legislative measure to face the Covid-19 emergency: Law on amending Article 6.751 of the Civil Code of the Republic of Lithuania. | The amendments established the coupon system in cases of war, state of emergency, mobilisation, quarantine, emergency situation or emergency event or when citizens of the Republic of Lithuania are forbidden to leave the country or citizens of other countries are forbidden to enter the Republic of Lithuania, and, as a result thereof, it becomes impossible for the travel organiser to fulfil his/her obligations under the contract of the organised tourist trip. These amendments were addressing the tourism sector's financial situation in the context of the COVID-19 crisis.<br>The amendments changed the Description in line with changes described in paragraph 6 and aligned the secondary legislation with the Law on Tourism (LOT).<br>It established that the period for reimbursement of all amounts paid by or on behalf of the tourist for the package tour was extended to 90 days thereby addressing the tourism sector's financial situation due to the COVID-19 crisis and shortly thereafter restored to 14 days from of the date of termination of the package tour contract.<br>It set out a new version of the Law on Tourism. The main changes include e.g. introduction of the concept of "traveller", rules on the withdrawal of the tour organisers' certificate, etc.<br>It brought amendments on e.g. amount of performance security; financial guarantees, etc.<br>The amendments changed the Description in line with changes described in paragraph 1 above and aligned the secondary legislation with the Law on Tourism. |

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| | | | Legislative measure implementing the PTD: Law on amending Law on Tourism (Law on Tourism of the Republic of Lithuania), (draft law).<br>Legislative measure implementing the PTD: Law on amending Articles 9, 10, 15, 23, 28, 29, 30, 31, 32, 34, 36, 37, 38, 39 and 41 of the Law on Tourism.<br>Legislative measure implementing the PTD: Resolution No 903 on amendments to the Government of the Republic of Lithuania No 756 "On the approval of the description of the procedure for securing the fulfilment of the obligations of a tour organiser and a seller of a package of tourist services". | |
| **LU** | **YES** | Legislative measure | Temporary legislative measure to face the Covid-19 emergency: Special Regulation of 27 March 2020. | It provided for the provisional suspension of the effects of cancellation in respect of package travel in the context or coronavirus to postpone the reimbursement of consumer advances. |
| **LV** | **YES** | Legislative measures | Temporary legislative measure to face the Covid-19 emergency: Law on the Management of the Spread of COVID-19 Infection (*Covid-19 infekcijas izplatības pārvaldības likums*) of 5 June 2020.<br>Legislative measures clarifying/implementing the PTD: Amendments to the Tourism Law (*Grozījumi Tūrisma likumā*) of 8 October 2020. | It regulates the certification (voucher) system: an organiser, instead of refunding the traveller, was entitled to draw up a certification (voucher) to the traveller for the amount of the unused trip, if the package travel contract had been terminated (a) due to the declaration of the emergency situation in Latvia caused by the spread of COVID-19 infection or (b) due to force majeure circumstances in the holiday destination in relation to the spread of COVID-19 infection. If a traveller refused to receive the certification, the tour operator and traveller might agree on another solution, including repayment of the money and repayment time limit which could not exceed |

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| | | | | 12 months from the day when the emergency situation was revoked in the State. The organiser must have the special licence and valid security in the form of an insurance policy issued by an insurer, or a guarantee issued by a credit institution. It also lowered the amount of security to be provided by the organiser to prevent mass insolvency of companies in the travel sector (this provision applied until 30 June 2022).<br>Among other things, Article 16(5) of the Tourism Law was amended by including (i) a clarification that the amount of security provided by organisers and traders facilitating linked travel arrangements must be sufficient and effective and (ii) an explanation of the turnover in the sector of package travel and linked travel arrangements, stating that it is the total amount of money received from travellers within a specified period for a package travel arrangement or a service included in a linked travel arrangement. |
| **MT** | **YES** | Legislative measures | Temporary legislation to face Covid-19 emergency: Legal Notice No. 80 of 2020. | It amends Subsidiary Legislation (S.L.) No. 409.19, in particular, the provisions on the termination of the contract and reimbursement to traveller. In case of termination of package travel contract between the 1st of March 2020 and 31st May 2020, L.N. 80 of 2020 extends the repayment period from fourteen days (as indicated in the PTD) to six months after the package travel contract is cancelled. |
| **NL** | **NO** | N/A | N/A | Although no emergency temporary legislation was adopted in the NL, in April 2020, the Dutch Government formally asked the national enforcement bodies to suspend the enforcement of the Air Passenger Rights Regulation (261/2004). Following this suspension of enforcement of traveller legislations for both package travel and standalone tickets, consumers had to wait between six and twelve months to get their monetary reimbursement. |

| LEGISLATIVE AND OTHER MEASURES ADOPTED IN MS SINCE JULY 2018 | | | | |
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| **MS/EEA countries** | **New measures since July 2018** | **Typology of the measures** | **References** | **Comments on the measures** |
| | | | | Right after the publication of the Commission's recommendation on vouchers, the Minister of Infrastructure withdrew the suspension of enforcement.[941] |
| **NO** | **YES** | Legislative measure<br>Administrative measure | Legislative measure clarifying/implementing the PTD: Amendment to Norwegian legislation transposing the PTD.<br><br>Temporary legislative measure to face the Covid-19 emergency: Government Regulations of April 2020. | This amendment did not affect any of the topics regulated under the PTD.<br><br>The deadline for reimbursement was extended in April 2020 by Government Regulations to 90 days to refund consumers in the event of the cancellation of package travel with a departure date between 14 March and 14 June 2020. This measure was retroactive and included also overdue claims. The situations in which this reimbursement obligation applies according to the main transposing legislation includes those set out in the PTD. |
| **PL** | **YES** | Legislative measures | Temporary legislative measure to face the Covid-19 emergency: Act on special arrangements for preventing, countering and combating COVID-19, other communicable diseases and emergencies caused by them (*Ustawa o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych*) of 2 March 2020, Journal of Laws of 2020, item 374 with further amendments. | This measure modified the general cancellation right, both in terms of its temporal effects (by postponing legal effects of cancellation), and by adding additional reason for the professional, which was not previously covered by the provisions implementing PTD. According to Article 15k(2), cancellation of an agreement can be replaced with offering a consumer a voucher for a future tourist service. The sums in question are subjected to the general financial insurance of the tourist service organizer.<br>The new provisions established two additional guarantees for repayment to consumers the sums they transferred as a price for a tourist service. The organizer of the tourist service may ask for re-financing consumer expenses from the Tourist Found of Returns (*Turystyczny Fundusz Zwrotów*), created at the Bank of National Economy (*Bank Gospodarstwa Krajowego*), i.e. a state-owned bank that provides financial services to the government and the |

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| **MS/EEA countries** | **New measures since July 2018** | **Typology of the measures** | **References** | **Comments on the measures** |
| | | | | territorial self-government structures. The fund provides repayments to consumers whose tourist services were cancelled and who were not offered vouchers or did not accept them.<br>Another guarantee for consumer financial interest introduced during the Covid-19 pandemic, is the Tourist Assistance Fund (*Turystyczny Fundusz Pomocowy*), which constitutes a part of the Insurance Guarantee Fund (*Ubezpieczeniowy Fundusz Gwarancyjny*).<br>Payments from the Assistance Fund are to be made in the event that the tour operator is unable to provide travellers with refunds for the tourist event, if the event was cancelled due to unexpected circumstances (under Article 47 TSA).<br>The Tourist Assistance Fund, has also recently been applied by the Polish government to tourist events cancelled due to the war in Ukraine. |
| **PT** | **YES** | Legislative measures<br>Administrative measures | Legislative measure implementing the PTD: Decree-Law No. 9/2021 (*Decreto-Lei nº. 9/2021*) of 29 January 2021.<br>Temporary legislative measure to face the Covid-19 emergency: Decree-Law No. 10-A/2020, of 13 March 2020 (*Decreto-Lei nº. 10-A/2020*).<br>Legislative measure repealing temporary legislative measure: Decree-Law No. 22-A/2021 *Decreto-Lei nº. 22-A/2021*) of 17 March 2021.<br>Temporary legislative measure to face the Covid-19 emergency: Decree-Law No. 17/2020 (*Decreto-Lei nº. 17/2020*) of 23 April 2020. | It amends Decree-Law (DL) No. 17/2018 of 8 March 2018 (which establishes the regime for accessing and exercising the activity of travel and tourism agencies and came into force on 1 July 2018). It approves the Legal Regime for Economic Administrative Offenses (*Regime Jurídico das Contraordenações Económica*s). This act has included the concept of 'economic offense' in DL 17/2018 and subsequently amended the provisions regulating the administrative offenses and the respective sanctions.<br>In the context of the COVID-19 crisis, it established exceptional and temporary measures regarding the epidemiological situation of COVID-19. In its Article 11, it prohibited school trips, or similar trips, and obliged travel agencies to reschedule them, rather than providing for refund.<br>It revoked Decree-Law No. 10-A/2020.<br>It established exceptional and temporary measures relating to the tourism sector, within the scope of the COVID-19 disease pandemic. It includes a set |

| LEGISLATIVE AND OTHER MEASURES ADOPTED IN MS SINCE JULY 2018 | | | | |
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| **MS/EEA countries** | **New measures since July 2018** | **Typology of the measures** | **References** | **Comments on the measures** |
| | | | Legislative measure repealing temporary emergency measure: Decree-Law No. 62-A/2020 (*Decreto-Lei nº. 62-A/2020*) of 3 September 2020.<br>Financial measure: Legislative Order No. 4/2020 (*Despacho Normativo nº. 4/2020*) of 25 March 2020.<br>Financial measure: Legal Order No. 9/2022 (*Despacho Normativo nº. 9/2022*) of 3 June 2022. | of measures aiming to mitigate the constraints caused in the tourism sector and lays down provisions regarding (i) trips organized by travel and tourism agencies (package travel) (ii) cancellation of reservations in tourist resorts and local accommodation establishments, and (iii) relations between travel and tourism agencies, tourist entertainment operators and tourist resorts and local accommodation establishments.<br>It included a provision exclusively regulating package travel organised by travel and tourism agencies, Article 3, which stated that, in the event of cancellation of a package travel, the consumer could choose one of two solutions: the issuing of a voucher equal to the amount paid, valid until 31 December 2021, or rescheduling the trip to this same date.<br>It reinstated the normal regime of reimbursements.<br>It set up a financial support line aimed at facing the treasury needs of tourist micro-enterprises, whose activity was strongly affected by the economic effects resulting from the outbreak of the COVID-19 disease. It has been amended several times.<br>With this Act, the Government approved the extension of the deadline, from 2 to 4 years, for the reimbursement of the financial support that the companies were granted through the support line.<br>A second line of support was also set out in 2021. |
| **RO** | **YES** | Legislative measures | Legislative measure clarifying/implementing the PTD: Order No. 874/2019 for amending legislation concerning the tourism sector (*Ordinul 874/2019 pentru modificarea unor acte normative din domeniul turismului), issued by* the Ministry of Tourism, published in the OGR, No. 845, 17 October of 2019.<br>Legislative measure clarifying/implementing the PTD: Order No. 1183/2018 for the approval of the form, content, method of submission and | It amends the provision of Article 3 (2) of Order No. 156/2019, stating that organising travel agencies guarantee the amount paid by or on behalf of the traveller regardless of whether the packages are sold directly to the traveller or through an intermediary travel agency.<br><br>Order No. 1183/2019 has also suffered minor amendments through Order No. 874/2019, by the introduction of Art. 6 failure to comply with the obligations set forth by the Order or failing to comply with the date of |

| LEGISLATIVE AND OTHER MEASURES ADOPTED IN MS SINCE JULY 2018 | | | | |
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| | | | management of Statement on the activity carried out by the organising tourism agencies (*Ordinul 1183/2019 pentru aprobarea modelului, conţinutului, modalităţii de depunere şi gestionare a "Declaraţiei privind activitatea desfăşurată de către agenţiile de turism organizatoare"*) issued by the Ministry of Toursim, published in the OGR, No. 878, 18 October of 2018. | submission of the Statement of activity is penalised with an administrative fine of RON 10 000 (approx. EUR 2000). |
| **SE** | **YES** | Legislative measures<br><br>Government Ordinance | Legislative measure linked to the PTD transposition, lately amended: *Lag (2018:1220) om ändring i marknadsföringslagen (2008:486)*<br>Measure implementing the PTD: *Förordning om standardformulär för paketresor och sammanlänkade researrangemang*<br>Legislative measure linked to the PTD transposition, *Lag (2018:1336) om ändring i sjölagen (1994:1009)*<br>Legislative measure linked to the PTD transposition, lately amended: *Lag (2018:1338) om ändring i lagen (2005:59) om distansavtal och avtal utanför affärslokaler* | It amended the "Marketing Act" by inserting a reference to the Package Travel Act into the non-exhaustive list of acts to which the Marketing Act shall be applicable in Section 1 of that Act. With the following amendment this reference had been removed, and replaced with a more generalised statement which does mention the PTD.<br>It identified the Swedish Consumer Agency (*Konsumentverket*) as the authority responsible for issuing certain standard forms listed in the Package Travel Act.<br>It amended the Maritime Act (1994:1009) through amendment of its Chapter 15, Section 8. This provision applies to contracts for maritime passenger transport, and prohibits such passengers from transferring their rights under a contract referring to specific passengers to another passenger. The amendment excluded contracts falling under the Package Travel Act from the scope of this provision.<br>It amended the Distance and Off-Premises Contracts Act (2005:59), which serves to regulate consumer protection for distance contracts and contracts entered into outside of business premises. The amendment concerned Chapter 2, Section 1 of this Act, on the scope of Chapter 2 of the Act regulating the provision of non-financial services. Via the amendment, contracts falling under the Package Travel Act were excluded from the scope of Chapter 2 of the Distance and Off-Premises Contracts Act. This provision |

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| **MS/EEA countries** | **New measures since July 2018** | **Typology of the measures** | **References** | **Comments on the measures** |
| | | | | has since been further amended, as the exclusion of contracts falling under the Package Travel Act is now instead stated in a separate provision, i.e. Chapter 2, Section 1 a, with effect from the 1 September 2022. |
| **SI** | **YES** | Legislative measures | Temporary legislative measure to face the Covid-19 emergency: Act on Amendments and Supplements to the Act on Intervention Measures to Curb the COVID-19 Epidemic and mitigating its consequences for citizens and the economy (*Zakon o spremembah in dopolnitvah Zakona o interventnih ukrepih za zajezitev epidemije COVID-19 in omilitev njenih posledic za državljane in gospodarstvo, Uradni List RS, št. 49/20 z dne 10 April 2020 (ZIUZEOP)).* | It regulates the reimbursement possibilities in case of cancellation of the package travel contract in the context of the Covid-19 emergency. In cases where the package travel contract is not fulfilled due to unavoidable and extraordinary circumstances caused by the epidemic, the travel organizer can issue a value note (voucher) to the consumer in the amount of all the consumer's payments. Those consumers, who do not agree with the issuance of the voucher, can demand from the travel organizer the return of all payments, which the organizer is obliged to return within 12 months after the declaration of the end of the epidemic. The guarantee that the tour operator must provide under the Consumer Protection Act (*ZVPot*) also applies to the issued voucher. |
| **SK** | **YES** | Legislative measures | Legislative measure clarifying/implementing the PTD: Amendment (1 June of 2019) to Act No. 170/2018 (which is relevant for the transposition of almost all provisions of the PTD).<br><br>Temporary legislative measure to face the Covid-19 emergency: Amendment (29 May of 2020) to Act No. 170/2018.<br><br>Legislative measure clarifying/implementing the PTD: Amendment (21 July of 2020) to Act No. 170/2018. | It extended the rights of the traveller.<br>It provided for rights and obligations arising specifically from the pandemic emergency (including mandatory vouchers and a postponement for payment until September 2021).<br>It introduced a new obligation for the tour operator agencies. For package travel organised in the territory of another country, the tour operator agency has the obligation, at the request of the supervisory authority, to submit a copy of the authorisation to conduct business in the field, a copy of the arrangement of related tourism services issued under the relevant legislation of the country of establishment of the trader, as well as a copy of the documents relating to its insolvency protection. The provision detailed the information that must be contained in the insolvency protection documents.<br>A single provision was introduced stating that the traveller is entitled to refuse the replacement tour in writing within 14 days of the date of receipt of |

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| **MS/EEA countries** | **New measures since July 2018** | **Typology of the measures** | **References** | **Comments on the measures** |
| | | | Legislative measure amending temporary legislative measure: Amendment (1 April of 2022) to Act No. 170/2018. | the notification of the replacement tour if, during an emergency situation due to COVID-19 in the Slovak Republic, is included in the register of job seekers. |

## APPENDIX IX. PACKAGE TRAVEL DURING THE COVID-19 PANDEMIC

### 1. Context

The outbreak of COVID-19 in 2020 was a severe public health emergency. Besides health considerations, which were by far the most important for the EU, this crisis was also a major economic shock. The pressure on the EU's travel and tourism sectors was unprecedented. The COVID-19 pandemic led to mass cancellations of travel bookings, including packages. All types of travel service providers were concerned, including many SMEs. Many of them were facing direct liquidity issues and were seeking support from the public authorities, including the EU.

At the same time, citizens were impacted by the cancellation of nearly all national and international travel and tourism services.

The number of **cancellations** skyrocketed in 2020. The pandemic resulted in numerous travel bans, warnings and restrictions at borders that led to a vast number of cancellations and many people being unable to travel. As a result, the tourism sector virtually came to a standstill. In April 2020, there were 88% fewer flights in the EU than in April 2019, with 99% fewer passengers and roughly 50 million flight tickets cancelled between March and May 2020. In the EU, the effect of travel restrictions on flights has been more widespread than in other parts of the world.[942] In addition, by May 2020 there had been an 85% reduction in long-distance railway passenger services compared to 2019, an 80% drop in regional rail passenger services and 90% in cruise and passenger ships services.[943] In the 1st wave of the pandemic (March-June 2020) international rail passenger volumes dropped by almost 100% for all operators.[944] The sector experienced EUR 24 billion loss in revenues for passenger services over 2020, in comparison to 2019. While data on the number of packages in 2020 is not available, nor on the number of travel services which formed part of a package, the sharp reduction of bookings and increase in cancellations strongly suggest a similar decline for the package sector. [945]

The organisers of package travel are subject to the harmonised regime of Directive (EU) 2015/2302. The Directive provides that the organiser must reimburse the traveller for payments made if the trip is cancelled due to unavoidable and extraordinary circumstances, and that not later than 14 days after the package travel contract is terminated.

[942] European Court of Auditors, (2021), Special Report: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, p. 12-13.
[943] European Commission, (2020), Commission Recommendation (EU) 2020/648 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, p. 1.
[944] European Parliament TRAN Committee, (2022), Relaunching transport and tourism in the EU after COVID-19, available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2022/690899/IPOL_STU(2022)690899_EN.pdf
[945] Study carried out by ICF

While it is not possible to arrive at a robust estimate of the value or number of cancelled *packages*, the data available for *flights* can give an indication on the magnitude of the cancellation also for packages. 'The total reduction in passenger numbers was estimated at 346 million for the first six months of the year of 2020 by Eurostat, and at 800 million, or 67 %, for the full year by the International Civil Aviation Organisation (ICAO). We estimate that roughly 50 million tickets were cancelled between March and May 2020.'[946]

In the Impact Assessment (IA) accompanying a proposal for a Regulation for common rules for enforcement of passenger rights, passenger rights for multimodal journeys, and reimbursements of airline tickets bought via an intermediary,[947] it is assumed that the percentage of tickets in terms of number of passengers of scheduled flights as part of package travel would be 1.5-3%[950], while charter flights as part of package travel would represent 1.5-3%.

For the COVID-19 period, a macro-estimate of the value of cancelled package contracts arrives at around 150 billion EUR (1% of EU27 GDP) for 2020 and 2021 combined.

The losses experienced by travellers related to the cancellation of packages can be estimated based on the annual consumer expenditures for package travel. In 2017, these were estimated to reach 58 billion EUR (762 EUR per trip) for trips within Europe and 36 billion EUR (1.756 EUR per trip) for trips to other parts of the world.[951] This corresponds to around 76.1 million trips within Europe and 20.5 million trips to countries outside of Europe. Based on the PTD Application Report, around 4.4% of package travellers experienced financial loss,[952] a fact that may have an impact of 5.4 billion EUR on trip values (both external and internal to the EU). It is unlikely that consumer losses would have amounted to the total value of the trips. Using an estimate of between 10-30%[953] , the

[946] European Court of Audit, Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf, p13

[947] SWD ….(2023), page …., Table **Error! Main Document Only.**: Airline ticket payment flows

[948] Based on evidence provided by IATA and estimates in the context of the impact assessment support study (based on evidence gathered by a group of 5 airlines, which shows that approximately 36% of all passengers book via intermediary ticket vendors).

[949] Comparing the information provided by air carriers on the share of tickets sold via intermediary ticket vendors and the information provided by IATA on the amount (in euros) of ticket flows in ticket, it has been assumed that the share of tickets sold via intermediary ticket vendors is more or less proportional to the share of tickets sold (in paid amounts, as provided by IATA). The share of tickets sold via intermediary ticket vendors is considered proportional to the share of passengers booking via intermediary ticket vendors.

[950] Given the lack of clarity on the share of tickets, it has been assumed, using a conservative approach, that between 25% and 75% of ticket flows may fall within the scope of the Passenger Rights Regulation. The mid-point of this range has been considered, i.e., 3%. In addition, it has been considered that 3% of ticket flows are under the Package Travel Directive.

[951] PTD Application Report, p.2, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN

[952] The report states that 11% of all package travel consumers experienced problems, and 40% of these – that is 4.4% of all package travel consumers - experienced financial loss. PTD Application Report, p.3.

[953] The average price of an intra-EU flight is around 90 EUR per passenger (https://www.statista.com/statistics/1125265/average-ticket-price-selected-airlines-europe/), and the average long-haul price is 350 EUR per passenger (https://media.hopper.com/research/consumer-airfare-index-report-march-2022) which, in case of cancellation or delays would make up 12% of average intra-EU and 20% of international package travel price. Noting that the quoted airfares concern individually purchased tickets, it is assumed that airfares included in package trips may be more economical. Moreover, for the calculation of consumer losses, both flights (outgoing and return) would not necessarily be impacted. In terms of consumer losses related to accommodation services, an average hotel price per night in the EU between 100-200 EUR is considered. Consequently, losses resulting from unsatisfactory accommodation

losses could range from 540 million to 1.6 billion EUR.[954] Between March and May 2020, at the beginning of COVID-19, the cancellation of approx. 50 million flight tickets,[955] triggered a decrease of flights of around 76% and a decrease of around 75% in expenditure on package trips in 2020 as compared to 2019.[956] Based on this data, and using an estimate between 10-30%, the losses could range from 500-1500 million during the first three month of the pandemic.[957]

Throughout Europe, travel agencies, tour operators and airlines were confronted with millions of **refund claims and complaints** from travellers.[958]

**Package organisers faced difficulties**, on the one hand, as they had booked travel services in advance for travellers, by making partial or full payments to service providers, while, on the other hand, travellers were cancelling their trips, asking for reimbursement, without the possibility for organisers to get their money back from service suppliers.[959] Since the number of bookings also collapsed, companies were unable to generate new sources of revenue to execute refunds, which had an impact on their liquidity.[960] At the same time, if service providers went bankrupt in the meanwhile, organisers might not receive refunds at all. 'This can result in an unfair sharing of the burden among operators in the travel eco-system.'[961]

Therefore, due to liquidity problems of organisers, contrary to the Directive, many travellers did not receive refunds or received them only considerably later than the 14 days required by the PTD.

### 2. Vouchers

Travel agencies, tour operators, airlines and railway companies started to offer their customers a **voucher** instead of a cash refund or to postpone the reimbursement. According

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can impact 13-26% of package travel prices. Similarly, to airfare however, we estimate that accommodation is sold at a discount for package trips and consider that not the entirety of costs may be linked to consumer losses.

[954] Introduce reference to ICF study, page

[955] European Court of Auditors, Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts, https://www.eca.europa.eu/Lists/ECADocuments/SR21_15/SR_passenger-rights_covid_EN.pdf, p13

[956] According to Eurostat, in EU-27, there was a total of 1146,44 million flights in 2019, 277 million flights in 2020 and 374 million flights in 2021.

Based on Eurostat for 2014, 2017, 2020, 2021, interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 and on firm level data (ORBIS) as well as on the European Commission 2023 Spring Economic Forecast, it resulted that the total expenditure for package trips was EUR 110.709 million in 2019, EUR 27.627 million in 2020, EUR 35.879 million in 2021, EUR 76.673 million in 2022 and EUR 110.709 million in 2023, the same level of 2019.

Based on Eurostat for 2014, 2017, 2020, 2021, interpolated values for 2015, 2016, 2018, 2019, 2022, 2023 and on firm level data (ORBIS) as well as on the European Commission 2023 Spring Economic Forecast, it resulted that the average package price in EU-27, for trips within the EU and to the rest of the world, was of EUR 1.202 million in 2017, EUR 1.239 million in 2020, EUR 1.274 million in 2021, EUR 1.383 million in 2022 and EUR 1.475 million in 2023.

[957] An estimation of 4.029.660 cancelled packages during March – May 2020.

[958] ECTAA, (2020), COVID-19 and Tourism in Europe: Which Consequences for Travel Agencies and Tour Operators - Impact of Package Travel Directive and other EU legislation on the travel companies in the context of the pandemic, p. 5.

[959] Ibidem, p. 6.

[960] Ibidem.

[961] Recital 13 of the Commission Recommendation (EU) 2020/648.

to Member States authorities, package organisers rarely or never offered vouchers before COVID-19, whereas they started to frequently offer them since the outbreak of the pandemic.[962] One Member State authority explained that, before the pandemic, if a voucher was issued, this was only on a contractual basis between the organiser and the traveller.[963] Businesses also shared that before the pandemic vouchers were offered rarely, while being offered frequently since the outbreak of COVID-19.[964]

Several Member States adopted legislation deviating from the Directive, significantly extending the periods for reimbursements or making vouchers mandatory for travellers. In July 2020, the Commission opened infringement proceedings against 11 Member States.[965]

Consumer organisation outlined that travellers were sometimes given a voucher/credit note although they would have preferred a refund,[966] hence pointing to certain non-compliance with the PTD and enforcement problems regarding imposition of vouchers.

In a **recommendation on vouchers** of May 2020 (Commission Recommendation on vouchers)[967], the Commission set out principles in relation to make voluntary vouchers more attractive for travellers. First, travellers should have the choice to accept vouchers or to claim cash refund. If they accept a voucher, they should be able to request a full refund if they have not used it by the end of its validity. In addition, such vouchers should be covered in the event of insolvency of the airline or travel organiser. Member States should ensure that such (existing) insolvency protection is sufficiently robust to guarantee those vouchers.

### 3. Implementation of the Recommendation on Vouchers

The Commission report on the application of the PTD[968] indicates that 'Germany[969], Hungary[970], Latvia[971] and Cyprus[972] have adopted national rules setting a legal framework for vouchers proposed for voluntary acceptance by travellers in the package travel sector, along the lines of the Commission Recommendation, in particular regarding protection against the insolvency of the issuer. Italy and Greece have followed parts of the

[962] NCAs Regulatory and Enforcement targeted survey Q.5 – n. 24: Before COVID-19: 0 frequently, 16 rarely, 4 never. Since the outbreak of COVID-19: 20 frequently, 0 rarely, 0 never.
[963] Interview with Member State NCA, 25th November 2022.
[964] Business targeted survey Q. 16 – n. = 25: Before COVID-19: 5 frequently, 11 rarely, 3 never, 6 don't know. Since the outbreak of COVID-19: 18 frequently, 1 rarely, 0 never, 6 don't know.
[965] See Commission's press communications of 2 July and 30 October 2020 (under point 5 – Justice): https://ec.europa.eu/commission/presscorner/detail/en/INF_20_1212 and https://ec.europa.eu/commission/presscorner/detail/en/inf_20_1687
[966] Public consultation (Section III for public authorities and consumer organisations, Q41): 18 of 21 (81%) of consumer organisations and 11 of 19 (58%) public authorities. And see BEUC position papers submitted as feedback to the IIA, and to the public consultation that describes issues around imposition of vouchers.
[967] Commission Recommendation of 13.5.2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, C/2020/3125, OJ L 151, 14.5.2020, p. 10–16
[968] COM(2021) 90 final, p. 19
[969] Act of 10 July 2020 to mitigate the consequences of the COVID-19 outbreak in package travel contract law, BGBl 2020 Teil I Nr. 35 of 16.7.2020, p. 1643.
[970] Government Decree 242/2020 of 27 May on the special rules applicable to contracts for travel services during an emergency.
[971] Law on the Management of the Spread of COVID-19 Infection, chapter V, section 46, Latvijas Vēstnesis, 110A, 09.06.2020, OP number: 2020/110A.1.
[972] The Emergency Measures in the Tourism Sector Law of 2020, Law 59(I)/2020 of 22 May 2020.

Recommendation when amending their laws after the opening of infringement proceedings. Spain amended its legislation to prevent the opening of the infringement proceedings. Ireland introduced State-backed refund credit notes that may be offered to customers of tour operators and travel agents operating in Ireland instead of a cash refund, if the customer agrees.[973]'

In the framework of the consultations for the evaluation[974], Member States which introduced systems of *voluntary* vouchers were asked about the share of travellers who accepted vouchers in connection with cancellations related to COVID-19. The majority of the respondents did not have this information.[975] The same question was asked to businesses and consumer organisations. In both cases, the majority of the respondents replied that they did not know the share. Regarding businesses, 4 respondents out of 20 said that the share of travellers who accepted vouchers was between 30% and 50%,[976] whereas 2 out of 8 consumers organisation replied that the share was between 10% and 30%.[977]

However, given the non-binding nature of recommendations, package organisers continued to issue vouchers as they saw fit or in line with national rules breaching the PTD and the Recommendation, with the consequence that travellers in different EU countries were treated differently.[978] In a December 2020 report, BEUC mentions that '[h]owever, although this Recommendation and these proceedings have been welcomed by BEUC, their concrete effects are limited.'[979]

The study carried out by ICF identified mixed stakeholder views on the matter. Consumer organisations emphasised that travellers should not be deprived of their right to a monetary refund, as the choice of whether to accept a voucher or to receive a cash refund ultimately belongs to consumers.[980] However, in reality, travellers often did not have this choice. On the other hand, an industry stakeholder explained that often travel agents had no choice but to impose vouchers on their customers, even if not the best solution, as they were the only short-term alternative solution to help traders to avoid bankruptcy.[981] Academic research

[973] https://www.gov.ie/en/publication/1ae3d-refund-credit-note/
[974] *Study to* support *the preparation of an evaluation of the Package Travel Directive back-to-back with an impact assessment on its potential revision*, prepared by ICF SA,
[975] NCAs Regulatory and Enforcement targeted survey Q. 7 – n. = 18: Less than 10%: 2; Between 10% and 30%: 3; Between 30% and 50%: 1; Between 50% and 75%: 2; More than 75%: 0; Don't know: 10.
[976] Business targeted survey Q. 17 – n. = 20: Less than 10%: 0; Between 10% and 30%: 2; Between 30% and 50%: 4; Between 50% and 75%: 3; More than 75%: 1; Don't know: 10.
[977] Consumer organisations targeted survey Q. 12 – n. = 8: Less than 10%: 1; Between 10% and 30%: 2; Between 30% and 50%: 1; Between 50% and 75%: 0; More than 75%: 1; Don't know: 3.
[978] European Court of Auditors, (2021), Air passenger rights during the COVID-19 pandemic […].
[979] BEUC (2020), COVID-19 and EU Travellers' Rights, Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers', p. 1, https://www.beuc.eu/position-papers/covid-19-and-eu-travellers-rights-evaluation-member-states-implementation-eu
[980] BEUC, (2021), The Package Travel Directive: BEUC's Position on how to regain consumers' trust in the tourism sector, p.17.
[981] ECTAA, (2020), COVID-19 and Tourism in Europe: Which Consequences for Travel Agencies and Tour Operators […], p. 7.

suggests that vouchers should benefit travellers and tour organisers alike, and this cannot be the case in the framework of mandatory vouchers.[982]

The above has been confirmed by the social media listening exercise conducted in the framework of the study, which detected several reasons behind the negative experiences shared by consumers. These included delays in receiving refunds or vouchers from travel companies after travel arrangements were cancelled, the timeframes that issued vouchers needed to be used by, and the difficulties consumers encountered when they sought refunds instead of vouchers.[983]

**4. Cancellation of package travel contracts under Article 12(2)**

Cancellations of package travel contracts due to 'unavoidable and extraordinary circumstances' and refunds became problematic, in particular for travellers, during the COVID-19 pandemic.

On the one hand, as mentioned above, some Member States adopted national emergency measures on refunds of packages as a result of COVID-19 pandemic infringing the PTD and also leading to different rules related to refunds across Member States.[984]

In addition, different interpretations of Article 12(2) emerged and most national competent authorities called for clarifications on the rules on trip cancellations.[985] Several questions[986]

[982] Loos, M.B.M., (2021), One day I'll fly away… Voucher schemes for cancelled package travel contracts after the outbreak of the COVID-19 pandemic, Amsterdam Law School Legal Studies Research Paper, No. 2021-13.

[983] The social media listening collected Twitter data from the EU 27/EEA from June 2020 - June 2022 for commentary discussing travel packages, including vouchers and refunds, during the Covid-19 crisis. The collected data includes all Twitter comments (excluding retweets) which mention the set of pre-defined keywords related to travel packages. 3,291 tweets were collected, translated and then modelled in English.

[984] See BEUC, Covid-19 and EU travellers' rights - Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers'

[985] See NCAs Regulatory and enforcement targeted survey, open Q2.

[986] AT (Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 16 August 2022 — GF v Schauinsland-Reisen GmbH (Case C-546/22) (2022/C 408/45); Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 21 June 2022 — DocLX Travel Events GmbH v Verein für Konsumenteninformation (Case C-414/22) (2022/C 359/48); Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 11 March 2022 — TR, UQ v FTI Touristik GmbH (Case C-193/22) (2022/C 237/44); Request for a preliminary ruling from the Landesgericht Salzburg (Austria) lodged on 5 May 2021 — FC v FTI Touristik GmbH (Case C-287/21) (2021/C 278/47)), DE (Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 29 July 2022 — AQ v trendtours Touristik GmbH (Case C-511/22) (2022/C 441/08); Request for a preliminary ruling from the Landgericht Frankfurt am Main (Germany) lodged on 9 August 2022 — PA v trendtours Touristik GmbH (Case C-529/22) (2022/C 441/09); Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 5 September 2022 — QM v Kiwi Tours GmbH (Case C-584/22) (2022/C 441/24); Request for a preliminary ruling from the Amtsgericht Düsseldorf (Germany) lodged on 15 December 2021 — EV v Alltours Flugreisen GmbH (Case C-776/21) (2022/C 138/12)); ES (Request for a preliminary ruling from the Juzgado de Primera Instancia de Cartagena (Spain) lodged on 8 February 2022 — RTG v Tuk Travel, S.L. (Case C-83/22) (2022/C 213/33); LT (Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas lodged on 4 May 2022 — M. D. v 'Tez Tour' UAB (Case C-299/22) (2022/C 311/05). Two other requests for preliminary rulings have been lodged on related issues, namely on the voluntary or mandatory nature of vouchers (DE Request for a preliminary ruling from the Landgericht München I (Germany) lodged on 17 November 2021 — RSD Reise Service Deutschland GmbH v QL (Case C-690/21) (2022/C 51/29)) and on the possible derogation to obligation to a refund (FR Request for a preliminary ruling from the Conseil d'État (France) lodged on 2 July 2021 — Union fédérale des

have been referred to the Court of Justice of the European Union in relation to the cancellation right under Article 12(2). In C-396/21 the CJEU, in relation to the right to a price reduction in the context of the Covid-19 pandemic, the Court ruled on the traveller's right to a price reduction and compensation for damages according to Article 14 because of the lack of conformity of travel services. Whether this is attributable to the organiser or to persons other than that traveller or that it is due to circumstances beyond the control of that organiser such as 'unavoidable and extraordinary circumstances', within the meaning of Article 3(12), does not affect the existence of that traveller's right to a price reduction and compensation for damages.

In addition, the circumstances occurring at the place of departure constituted a key aspect of the COVID-19 pandemic crisis as, e.g., while the restrictions on movement or quarantine requirements at the place of departure were rendering, de facto, impossible for a traveller to start the package travel contract (for instance, travellers may have not been able to reach the airport in case it was located in another region and the movement among regions was limited)[987], the organiser/retailer often did not accept this as a justification for the termination without fees able to trigger the conditions of Article 12(2). When asked whether a potential recast of the current PTD would need to include the circumstances at the place of departure within the boundaries of Article 12(2), the sector is polarised between consumers that almost unanimously are in favour of this,[988] and most businesses that are against.[989]

Travel industry representatives outlined the problem rising from the divergent regime applicable to organisers under the PTD, who must reimburse travellers in money, and that applicable to some service providers, such as hotels, allowed to issue vouchers during the pandemic.[990]

The dysfunctionalities in the business-to-business (B2B) relationships proved to have a negative impact on travellers, triggering two main problems regarding refunds of pre-payments: (a) referral of travellers from organisers to retailers and vice-versa, making it very difficult for travellers to obtain their rights and (b) delay in reimbursing travellers due to the difficulties that organisers faced in recovering the pre-payments from service providers, e.g., airlines and hotels

(i) Referral of travellers from organisers to retailers and vice-versa

According to consumer organisations, travellers have been 'occasionally' unaware whom to contact for a refund under Article 12 before the COVID-19 pandemic and 'often' during the pandemic. Situations in which (i) organisers referred travellers to retailers for the

consommateurs — Que choisir (UFC — Que choisir), Consommation, logement et cadre de vie (CLCV) v Premier ministre, Ministre de l'Économie, des Finances et de la Relance (Case C-407/21) (2021/C 357/18)).

[987] Interview with a worldwide business association representing the airline sector.

[988] Targeted survey – Consumer (Q8): 92% (11 out of 12) respondents from consumer organisations selected 'Yes'.

[989] Targeted survey – Business (Q14): 69% (9 out of 13) respondents from business organisations selected 'No.

[990] European Commission, minutes of the meeting of the Stakeholder Expert Group to support the application of the Package Travel and Linked Travel Arrangements Directive (2015/2302), 8 November 2022.

refund, and (ii) retailers referred travellers to organisers for the refund have been experienced 'often' by consumers in practice (see Table below).[991]

Main B2B related scenarios/issues reported by consumers on refund rights due to 'unavoidable and extraordinary circumstances' under Article 12

| Scenarios | Extent | Period | |
|---|---|---|---|
| | | Before COVID-19 | During COVID-19 |
| Travellers were unaware whom to contact for a refund | Often | 8% | 33% |
| | Occasionally | 67% | 50% |
| | Rarely | 17% | 17% |
| Organisers referred travellers to retailers for the refund | Often | 50% | 67% |
| | Occasionally | 33% | 17% |
| | Rarely | 8% | 17% |
| Retailers referred travellers to organisers for the refund | Often | 58% | 75% |
| | Occasionally | 25% | 17% |
| | Rarely | 8% | 8% |

*Source: ICF targeted survey – consumer organisations (Q9).*[992]

Most national authorities (regulatory and enforcement), confirmed this, i.e., that, where the package was purchased via a retailer, travellers often did not have enough information on whom to contact for a refund and they were often sent from one trader to another without an effective resolution of their claims.[993]

Travellers are confused regarding the division of responsibilities for the performance of a package travel contract among the various actors of the value chain.[994]

The confusion in the division of roles and responsibilities between organisers and retailers is to the detriment of travellers, and at the same time impacts the level playing field for businesses and hinders the effectiveness of the PTD and the achievement of its stated objectives.

(ii) Delay in reimbursing travellers due to the difficulties that organisers faced in recovering the pre-payments from service providers

A significant share of businesses (45%) indicated that, during the COVID-19 pandemic, organisers were unable to provide timely refunds to travellers as they did not receive timely

[991] According to a Dutch consumer organisation interviewed for the study, there are also problems with tour operators making use of resellers, resulting in stipulating contracts that are invisible for travellers. Thus, if the travellers are not bound directly to a contract with the tour operator but with a reseller, then they do not understand where the money goes, becoming 'invisible' to the consumers, especially with bank transfers. This organisation would welcome solutions entailing a direct payment to the tour operator.

[992] N respondents of targeted survey – consumer organisations (Q9) = 12. From this number the indicated percentages of the table have been calculated.

[993] Targeted survey – NCAs (regulatory and enforcement) (Q17): 60% (15 out of 25) selected 'Yes' to this point. This point was partially confirmed by individuals using travel services in the public consultation (Q35): when asked about the main problems they faced before the start or during a package travel contract, 14% of citizens indicated that the *organiser referred them to the retailer through whom I had bought the* package*, but the retailer sent them back to the organiser, or vice versa*.

[994] See EQ1, sub-section *Organisers' liability for the performance of the contract*

refunds from service providers.[995,996] NCAs (regulatory and enforcement) confirmed they noticed this challenge, although to a lesser extent (23%).[997]

'The uneven character of the business-to-business relation is further aggravated by the different legal regimes of organisers and transport services providers. Contrary to the PTD, passengers who cancel a flight or other transport service themselves do not have a right to reimbursement under the EU passenger rights Regulations, even in case of extraordinary circumstances. In such a case, the legal consequences and in particular the passenger's right to reimbursement are determined by the terms and conditions of the contract concluded between the passenger and the transport operator and the applicable law of the Member States. For example, if a traveller who booked a package with a flight component, cancelled the package travel contract in accordance with the PTD, the organiser has to reimburse the traveller, but has no right under EU law to claim a refund from the airline if the flight was operated. The organiser would rather need to assert a possible right to refund under the relevant law of the Member State concerned.'[998]

In general, service providers had not invoked legal reasons for delaying significantly the refunds to organisers. Several European umbrella organisations of businesses outlined that 'during the Covid19 pandemic, the main reason why package organisers/retailers could not refund their customers stems from their inability to recover the traveller's monies from service providers (in particular airlines).'[999]

Businesses explained that there were 'many cases where organisers had to reimburse travellers who cancelled their package, but organisers were not reimbursed by the airlines. […] During 2021 and 2022 Member States issued travel warnings due to the Covid-19 pandemic. In this context, many travellers cancelled their package contracts, while airlines operated flights and hence refused to refund organisers, who, in any event, had to refund travellers.'[1000]

Businesses also 'explained that refunds in normal times go through the global distribution systems (GDSs) that ensure automatic refunds. During the pandemic, it was a deliberated

[995] Targeted survey – businesses (Q15) N = 22. During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers, but have, in the meantime, received refunds from service providers: 45% replied to a large extent, 14% to a moderate extent, 14% to a small extent. During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers and have still not received refunds from service providers: 19% to a large extent, 10% to a moderate extent, 33% to a small extent.

[996] Interview with a German business association indicated that some providers had to wait a long time before the money came back for hotels and airlines so there was a gap between the time the tourist paid and the service partners who has to pay through the customer.

[997] N respondents of targeted survey – NCAs (regulatory and enforcement) (Q4) = 27. During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers, but have, in the meantime, received refunds from service providers: 23% to a large extent, 23% to a moderate extent, 8% to a small extent. During the Covid-19 pandemic, organisers were unable to provide timely refunds to travellers because they did not receive timely refunds from service providers and have still not received refunds from service providers. 16% to a large extent, 8% to a moderate extent, 20% to a small extent.

[998] COM(2021) 90 final, p.18
https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022DC0180

[999] ECTAA, position paper in reply to the targeted survey

[1000] Meeting with business organisation during the consultation process

choice of airlines to go through a manual process, allowing them to hold the refunds 8-9 months.'[1001]

Even if, in the end, organisers received some refunds from service providers, the negative impact that those delays had on travellers and organisers was still significant.

**5. Official travel warning or advice**

An official travel warning of national authorities is an important indicator that a package travel contract can be cancelled due to unavoidable and extraordinary circumstances affecting the performance of the trip. However, the PTD itself is silent in respect of the legal value of travel warning or advice issued by governments, as, at the moment of its adoption, [1002] some Member States were strongly opposed to any reference to official travel advice in the Directive.'[1003]

In the public consultation, stakeholders were asked whether, in case of a recast of the PTD, they would foresee the need to specify the consequences of 'official travel warnings' within the package travel context (e.g., their legal value in connection with cancellations because of unavoidable and extraordinary circumstances). Overall, the public consultation illustrated that regulating 'official travel warnings' within the cancellation rights under Article 12(2) due to 'unavoidable and extraordinary circumstances' would not be a viable option for most stakeholders.[1004] In this regard, there is a certain division in the sector, with most consumer organisations[1005] in favour of this possibility, while, in contrast, public authorities,[1006] and businesses[1007] endorsing this option to a more limited extent.

Stakeholders noted that travel warnings are crucial in enabling the refund right in light of unavoidable and extraordinary circumstances, both in the remit of the PTD and of the Air Passengers Regulation (EC) No 261/2004 [1008] (APR).[1009]

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[1001] Ibidem

[1002] The Commission proposal for the PTD, COM(2013) 512 final of 9.7.2013, stated in its recital 26: "Unavoidable and extraordinary circumstances should in particular be deemed to exist where reliable and publicly available reports, such as recommendations issued by Member State authorities, advise against travelling to the place of destination." This statement was deleted during the legislative negotiations.

[1003] COM(2021) 90 final, p.19

[1004] Public consultations (Q11): when asked whether the PTD should specifically regulate the consequences of 'official travel warnings', e.g., their legal value in connection with cancellations because of unavoidable and extraordinary circumstances, 53% (266 out of 502) of the stakeholders selected 'No', while 42% (209 out of 502) 'Yes'.

[1005] Public consultations (Q11): 81% of the consumer organisations (17 of 21) were in favour of regulating the consequences of 'official travel warnings', e.g., their legal value in connection with cancellations because of unavoidable and extraordinary circumstances'.

[1006] Public consultations (Q11): 45% of the public authorities (10 of 22) were in favour of regulating the consequences of 'official travel warnings', e.g., their legal value in connection with cancellations because of unavoidable and extraordinary circumstances'.

[1007] Public consultations (Q11): 33% of the companies (104 of 319) and 42% of the business associations were in favour of regulating the consequences of 'official travel warnings', e.g., their legal value in connection with cancellations because of unavoidable and extraordinary circumstances'.

[1008] Regulation (EC) No 261/2004: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004R0261.

[1009] Interviews with a large consumer organisation, and a large business association. The point was mentioned during ICF WS1 (26 October 2022) and during the PTD Expert Group meeting (8 November 2022) by the same organisations.

## 6. State aid measures

The Commission Recommendation on vouchers also points to instruments available to help easing the uncontested liquidity needs of undertakings in the transport and travel sectors, without compromising consumers' rights.

Because of the impact of the pandemic on the economy in general as well as on the travel industry specifically, the European Commission enabled Member States to use the full flexibility foreseen under State aid rules to support the economy. In March 2020, the Temporary Framework was adopted to e.g., alleviate the aftermath of the travel ban measures and other sanitary restrictions which weighed on the EU's economy.[1010]

The Temporary Framework is based on Article 107(3)(b) TFEU[1011] and complements other possibilities available to Member States to mitigate the social-economic impact of the coronavirus outbreak in line with EU State aid rules, e.g., the possibility under Article 107(2)b TFEU[1012] to compensate specific companies or specific sectors for the damages directly caused by 'exceptional occurrences' (i.e., the coronavirus epidemic). Several amendments were adopted to extend the scope of the Temporary Framework.[1013]

Since the beginning of the coronavirus outbreak, 108 State aid measures have been adopted under Article 107(2)b,[1014] 38 under Article 107(3)b,[1015] four under Article 107(3)c TFEU[1016] and about 700 under the Temporary Framework.[1017] All measures available in the Commission website.[1018] Only those adopted under Article 107(3)b) and under the Temporary Framework are relevant to the PTD. Most of the Member States made use of State aid measures. The decisions have different characteristics and purposes, such as:

1. providing travel organisers with sufficient **liquidity** to continue their activities during and after the coronavirus outbreak. For example:
    - On 3 December 2021, the European Commission approved an approximately €23 million (DKK 173.55 million) Danish scheme to support travel operators in the context of the coronavirus pandemic. The aid took form of direct grants, available to travel operators registered in the Danish Travel Guarantee Fund ('Rejsegarantifonden'), which aims at refunding travellers in case of cancellation of travel packages. The purpose of the scheme was to support the liquidity needs of travel operators that had to

[1010] The State Aid Temporary Framework. Available at: https://competition-policy.ec.europa.eu/state-aid/coronavirus/temporary-framework_en

[1011] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E107&from=EN .

[1012] Ibidem

[1013] Amendments were adopted in 2020: on 3 April 2020 (see https://ec.europa.eu/commission/presscorner/detail/en/ip_20_570), 8 May 2020 (https://ec.europa.eu/commission/presscorner/detail/en/ip_20_838), 29 June 2020 (https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1221) and 13 October 2020 (https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1872); and in 2021: on 28 January 2021(https://ec.europa.eu/commission/presscorner/detail/en/ip_21_261) and 18 November 2021 (https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6092).

[1014] One in 2023, 15 in 2022, 48 in 2021, 44 in 2020

[1015] One in 2022, 9 in 2021, 18 in 2020.

[1016] All 4 in 2020.

[1017] Communication from the Commission Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak 2020/C 91 I/01, C/2020/1863, OJ C 91I , 20.3.2020, p. 1–9.

[1018] https://competition-policy.ec.europa.eu/system/files/2023-02/State_aid_decisions_TF_and_107_2b_107_3b_107_3c.pdf.

pay additional fees to cover the liquidity shortages of the Fund due to the coronavirus pandemic.[1019]

- On 3 February 2022, the Commission approved a €300 million Austrian scheme to support package travel organisers and facilitators of linked travel services affected by the coronavirus pandemic. The scheme was a re-introduction of a measure approved by the Commission in February 2021 (SA.60521) which expired on 30 June 2021. Under the scheme, the aid takes the form of State guarantees. The guarantees covered, for a limited period of time, 100% of the beneficiaries' liability for travel services which could not be provided in full or in part due to the coronavirus pandemic. The scheme was temporary in nature and ensure adequate protection of the beneficiaries against the risk of insolvency until 31 December 2022.[1020]

- On 10 May 2021, the Commission found an approximately € 1.9 billion (CZK 50 billion) Czech scheme to support companies affected by the coronavirus outbreak. The aim of the scheme was to provide the beneficiaries with sufficient liquidity to continue their activities during and after the coronavirus outbreak.[1021]

- On 9 July 2021 the Commission approved a €750 million German scheme in the form of a State guarantee for loans that may be taken out by the Travel Insolvency Fund, to reimburse travellers in case of insolvency of package travel organisers.[1022]

- On 18 November 2020, the Commission approved a BGN 51 million (approximately €26 million) Bulgarian scheme to support tour operators and travel agents in the context of the coronavirus outbreak, taking the form of direct grants. The aid was granted to tour operators and travel agents: (i) to refund customers whose travel packages were cancelled between 1 March and 31 December 2020 due to the coronavirus outbreak; and (ii) to cover the costs incurred to carry out their main activities over the same period.[1023]

2. supporting **vouchers be guaranteed against insolvency**, in line with the Commission's Recommendation on vouchers[1024]. For example:

- On 30 July 2020, the Commission approved a German State guarantee scheme worth €840 million to cover vouchers issued by travel operators for cancelled travel packages booked prior to 8 March 2020.[1025]

[1019] 3 December 2021: Commission approves €23.33 million Danish scheme to support travel operators in the context of the coronavirus outbreak (SA.100368) (daily news: MEX/21/6598). See *Daily News 03 / 12 / 2021 (*europa*.eu)*.

[1020] 3 February: €300 million Austrian scheme for package travel organisers and facilitators of linked travel services in the context of the coronavirus pandemic (SA.101114) (daily news: MEX/22/803).

[1021] 10 May: €11.6 million Czech scheme to support travel agencies in context of coronavirus outbreak (SA.61837) (daily news: MEX/21/2441).

[1022] 9 July: €750 million German State guarantee scheme for the Travel Insolvency Fund in the context of the coronavirus outbreak (SA.63063) (press release: IP/21/3611)

[1023] 18 December: €26 million Bulgarian scheme to support tour operators and travel agents in the context of coronavirus outbreak (SA.59990) (daily news: MEX/20/2507).

[1024] European Commission, Recommendation (EU) 2020/648 (…).

[1025] 30 July: €840 million German guarantee scheme to protect consumers and support the travel industry in the context of the coronavirus outbreak (SA.57741) (press release: IP/20/1431).

- The Commission also approved state aid for Cyprus, covering credit notes from organisers to travellers to cover gaps in the insurance cover, but also credit notes issued by certain service providers to organisers and travellers.[1026]
- The Commission also approved state aid for the Netherlands, extending coverage to include expiring crisis vouchers, which were issued from March 2020.[1027]

3. The Commission approved state aid decisions with **direct link to refunds of travellers,** for example for Belgium, Bulgaria, Czech Republic, Denmark, Lithuania, Poland, and Sweden.[1028]

[1026] SA.59668
[1027] SA.62271
[1028] SA.62887 BG, SA.57665 LT, SA.58102 PL

# APPENDIX X. OVERVIEW OF NATIONAL INSOVENCY PROTECTION SYSTEMS

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
|---|---|---|---|---|---|---|---|---|---|
| **Austria** | **NO** *[Austrian Law does not differ between a travel organiser and a trader facilitating LTAs but refers to persons entitled to exercise travel services (Section 1, Paragraph 3 of Package Travel Regulation)]* | Three different systems are available to protect consumers in the event of insolvency:<br><br>**insurance contract**<br>**bank guarantee**<br>**guarantee declaration**<br>**of a public corporation**<br><br>three systems can be seen as **alternatives** to each other. All systems include the same sum insured and this is calculated in the same way. The difference is therefore only in the person of the insurance provider. | **N/A** | The sum insured to be determined (...) shall be based on the intended turnover dates of the (...) calendar year. The sum insured shall be<br><br>1. at least **EUR 13,000** or<br>2. at least **18 %** of the turnover of that calendar year, or<br>3. at least **50 %** of the turnover of the peak month,<br><br>The higher of those amounts must be covered.<br>The **premium** is calculated according to the insurance-relevant turnover. There is a minimum premium **(EUR 340, - to EUR 400**, - depending on the type of cover). **The minimum sum insured according to the PRG is EUR 13,000**. There are different premium rates depending on the insurance variant (limited or unlimited liability). | **1.** the prepayments already made by the traveller (down payments and balance payments) if, as a result of the insolvency of the person entitled to perform the travel services, the travel services are not provided in whole or in part or if the service provider demands payment from the traveller<br><br>**2.** the expenses necessary for the repatriation and, if necessary, the costs of accommodati | **NO** | **NO** | The maximum liability amount is based on the insured insurance-relevant cost announced by the policyholder. If the sum insured is not sufficient, an aliquot settlement is made to the travellers. The exception to this rule is the case of unlimited liability. | **NO** |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | on before the repatriation which have arisen as a result of the insolvency of the travel organiser or - in the case of responsibility for the carriage of passengers - of the trader facilitating LTAs, and<br><br>**3.** where appropriate, the costs necessary for the continuation of the trip. | | | | |
| **Belgium** | **NO** | The only protection mechanism which is put into place in Belgium is the obligation for the organisers/traders to take an insolvability insurance (Articles 54, 55 and 65 of the Implementing Law; Royal Decree of 29 May 2018).<br><br>A similar guarantee should also be provided by an | The Implementing Law has no exceptions on the coverage, in compliance with Article 17 and Recitals 39-40 of Directive | The Implementing Law and the Royal Decree of 29 May 2018 do not set out a methodology, or provide factors to be taken into account, for the calculation of insurance premium.<br><br>However, Article 4 of the Royal Decree of 29 May 2018 provides that an insolvency insurance is only granted or maintained when: | According to Article 12 of the Royal Decree of 29 May 2018:<br>(i) The continuation of the trip, if possible;<br>(ii) The reimbursement of prepayments paid when contracting | **NO** | **YES** - The organiser and the retailer are each liable for the refund of all payments already made | The cost or repatriation is defined by each insurance company in consultation with the recipient of the insurance (organise | **YES** - The only difference is that according to Article 5 of the Royal Decree of 29 May 2018, the insurer can exempt a "microcompany" |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
|---|---|---|---|---|---|---|---|---|---|
| | | organiser or retailer selling separately, as intermediary, travel services (Article 72 of the Implementing Law). | 2015/2302. | (i) the capital of the trader constitutes of **at least 15% of its assets**, **unless the trader has an additional bank guarantee provided that its capital exceeds EUR 25,000**; (ii) the trader communicates its annual reports within one month after their approval by the General Assembly; (iii) the trader has made all relevant payments to the VAT fund, social security, and income taxes as legally required. | with the trader; (iii) The reimbursement of the travel services that cannot be provided anymore as a result of the trader's insolvency; (iv) The repatriation of the travellers, when the execution of the contract with the trader has already started and that such contract includes the travellers' transportation and, if needed, an accommodation when waiting for the repatriation. | | by or on behalf of travellers insofar as the relevant services are not performed as a consequence of their insolvency. | r/trader facilitating LTAs'). | (*microsociété*) to fulfil certain conditions for obtaining an insurance (in particular, the obligations to have a capital which constitutes at least 15% of its assets or to communicate its annual reports (obligations set out under Article 4 of the Royal Decree of 29 May 2018)). |
| **Bulgaria** | **NO** | Insurance contracts are the only insolvency protection mechanism in place in Bulgaria for | The most common insurance providers | **<u>Package travel contracts</u>** The amount of the insurance coverage is | According to review of some of the largest and | **N/A** | **NO** | No specific rules on determini | **NO** |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
|---|---|---|---|---|---|---|---|---|---|
| | | both package travel contracts and LTAs. | include the following exceptions in their contracts: (*a) Activities of the Insured outside the scope of his tour operator's activity within the meaning of the Tourism Act and its subordinate legislation; (b) Unlicensed activity or in the process of suspension or revocation of a license, or ascertained another violation of the* | to be **determined on the basis of the annual turnover of the tour operator** for the preceding year but in any case, should **not be less than statutory defined minimum amounts as per the category in which the tour operator falls according to its turnover** (Article 104 of TA). According to Appendix 9 to TA, titled "Table setting out the minimum limits of liability upon conclusion of contract for mandatory insurance under Article 97(1)", the following minimum amounts for the insurance of tour operators are determined (i.e. the minimum amounts to which it is allowed for the liability of the insurer for paying compensation to the insured to be capped under the insurance contract, both per insured event and in the aggregate; the parties to the contract are free to set a higher | most common insurance providers in Bulgaria, the following risks are covered:<br><br>The **liability of the Insured for damage caused to the user (s) of packages and LTA** […] **including in the event of his insolvency or bankruptcy**. In these cases, the Insurer shall:<br><br>Refund the amount paid by the traveller under the respective contract; Pay the difference when only part of the contract services is | | | ng the cost of repatriation were identified in the law. | |

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| | | | *regulations;*<br>*(c) Actions or omissions of a travel agent or other counterparties, partners, suppliers, creditors to the Insured or any third party beyond the control of the tour operator;*<br>*(d) Quality difference in the tourist services between the agreed and the actually provided during the travel (including a lower category of hotels;* | insurance amount (limit of liability)):<br>From 0 to 50,000<br>From 50,001 to 100,000<br>From 100,001 to 200,000<br>From 200,001 to 300,000<br>From 300,001 to 400,000<br>From 400,001 to 600,000<br>from 600,001 to 800,000<br>From 800,001 to 1,000,000<br>From 1,000,001 to 1,500,000<br>From 1,500,001 to 2,000,000<br>From 2,000,001 to 2,500,000<br>From 2,500,001 to 3,000,000<br>Over 3,000,000<br>*[Note: first column "Declared turnover achieved in the last financial year – BGN"; second column "Limit of liability per event and aggregate liability for all insured events during the term of validity of the insurance (BGN)"]*<br><br>The sum insured under the compulsory insurance of a tour operator which provides a **package including a charter flight may not be less than BGN 500,000**.<br><br>**LTAs** | provided during the journey;<br>Pay the costs of returning (repatriating) the user to the starting point of the trip;<br>Pay the costs (court expenses) of settling claims made with his express written consent. | | | | |

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| | | | *accommodation, dining establishments and entertainment, vehicles, etc.);*<br>*(e) Force majeure or event that is beyond the control of the tour operator or for which he is not responsible;*<br>*(f) Financial losses and other pecuniary damage suffered by the Insured during the performance of his business;*<br>*(g) Personal injury,* | The amount of the insurance coverage is to be determined on the basis of the **annual turnover of trader for the preceding year but in any case should not be less than statutory defined minimum amounts** (Article 106 of TA).<br><br>1. The minimum sum of insurance is set at **10 per cent** of the turnover achieved in the last year in respect of linked travel arrangements for which the trader facilitating the provision of linked travel arrangements has received payment from or on behalf of the traveller and whereupon the trader facilitating the provision of linked travel arrangements effects payment to the provider of the relevant travel service within a period longer than one working day from receiving the payment. **The amount of insurance coverage for this type of** | | | | | |

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| | | | *illness (incl. Stress) or death of the traveller occurred during the organized travel; (h) Acts of terrorism; (i) Acts of the travellers which resulted in damages; (l) Damage or destruction of property (movable or real estate) that is yours property or property of the traveller.* | **traders may not be less than BGN 5,000.**<br><br>2. In cases where the trader facilitating the provision of linked travel arrangements is a party responsible for the carriage of passengers, the extent of the insurance liability shall be set at **20 per cent of the annual turnover in respect of passenger transport services** as part of linked travel arrangements for which the trader facilitating the provision of linked travel arrangements is responsible. **The amount of insurance coverage for this type of traders may not be less than BGN 10,000.** | | | | | |
| **Cyprus** | **NO** | Two main insolvency protection systems:<br><br>**Insurance contract** | Not known | **Insurance contracts (Article 17 of Law 186(I)/2017)** | Not known | | **NO** | Not known | **NO** |

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| | | **Financial security from a financial institution**<br><br>The two systems are are overlapping, and mandatory in the Cypriot legal order. In addition, they both aim at protecting travellers from any failure in the performance of the contract by the trader that is caused by his insolvency/bankruptcy.<br><br>The difference is that in case of protection through insurance only an insurance company is involved in the system, while in the case of protection through financial security from a financial institution a financial institution and an approved body are involved (a corporation, association, club, foundation, union or association of tour operators, retailers and travel agents that has been incorporated, registered and operates under the Company Law or the Associations and | | The following factors should be taken into consideration:<br>(a) The type of packages sold, including means of transport,<br>(b) the travel destination,<br>(c) the organiser's legal constraints or commitments with regard to the amounts of prepayments he may receive; and<br>(d) the time of their occurrence before the start of the package.<br><br>No further guidance is given by the national provisions.<br><br>**Financial security from a financial institution (Article 18 of Law 186(I)/2017)**<br>This protection covers the largest of any of the following amounts:<br>(a) **20% or more of all payments received by the organiser** in accordance with package sales for the period immediately preceding twelve months from the date of entry into force of the security, or | | | | | |

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| | | Institutions and Other Related Issues Law) | | (b) **the maximum amount of all payments the organiser expects to have at any time in his possession**, in respect of packages that have not been fully executed.<br><br>The approved body shall calculate the minimum amount of the financial security in line with the abovementioned method. **Under no circumstances may the amount of the financial security be less than EUR 5,000**. | | | | | |
| **Croatia** | **NO** | Two mechanisms: **insurance contract** (at an insurance company); **bank guarantee** (at a bank)<br><br>The two protection systems of insolvency insurance and insurance against liability are complementary to each other. Their similarity is that they are both mandatory in the Croatian legal order. However, they serve a different purpose. | The most usual exceptions of coverage in the **insurance contracts** of the organisers of travel packages/ the traders facilitating LTAs (provided by | Article 50(2) and (3) of the PTS [which corresponds to Article 17(2) of the Directive] provides for a **calculation method**. This calculation method stipulates the minimum threshold of the security and that is **10% of the total amount realized from the sale of packages in the previous business year, or at least 10% of the planned annual amount anticipated to be realized from** | Refund of all payments made by or on behalf of the traveller in connection with the package travel contract for services which have not or will not be performed or will be only partially performed as a consequence | **NO** | **NO** | The cost or repatriation is **defined by each insurance company** in consultation with the recipient of the insurance (organiser/trader | **NO** |

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| | | The **insolvency insurance** (both in the form of insurance contracts and a bank guarantee) is intended to protect travellers from any failure in the performance of the contract by the trader that is caused by his/her insolvency / bankruptcy.<br><br>Whereas the **insurance against liability for damage** has a purpose to protect travellers in general (irrelevant on the solvency status of the organiser) by covering any damage incurred by the traveller as a result of non-performance, partial performance or undue performance of the obligations related to a package trip. | Croatian Obligations Act in order to cover the risk of their insolvency) are the following: The most significant exception of coverage is the occurrence of any risk, including **insolvency due to intent or fraud of the recipient of the insurance or the insured or the beneficiary of the insurance**. In this case, the insurance company is exempted | **the sale of packages in the current business year, provided that the annual package sale plan in the current year exceeds the package sales realized in the previous year**.<br><br>For the organiser who did not realize turnover from the sale of packages in the previous year, they also are obligated to provide insolvency security in the minimum amount of 10% of the planned annual package sale in the current year | of the organiser's insolvency or bankruptcy<br><br>Repatriation costs for travellers in the event of the organizer's insolvency if necessary, the financing of accommodation prior to the repatriation. | | | facilitating LTAs').<br><br>Usually **this cost has a quantitative limit (per traveller), in the insurance contracts, as well as all travellers per event** (of insolvency)/per period of insurance.<br><br>**However, this cost limit varies considerably depending on the insurance company.** | |

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| | | | from the payment of the indemnity. Risk occurs due to the following circumstances: (a) War events or riots, (b) Cases of force majeure: Earthquake, sedimentation, landslide, storm, tsunami, volcanic eruption or other natural phenomena.<br><br>These exceptions are not provided in the Croatian law, but they are included most of | | | | | No information available on this limit. | |

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| | | | the times in the insurance contracts.<br><br>The insurance companies do not cover also damages or losses of personal belongings, luggage, money, valuables and travel documents<br><br>In relation to the **bank guarantee**, which is regulated by the Croatian Obligations Act in Articles 1039-1043, there are no exception | | | | | | |

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| | | | s in coverage. | | | | | | |
| **Czech Republic** | **NO** | There are three security mechanisms in place in Czech Republic:<br><br>**Insurance**<br>**Bank guarantee**<br><br>These two mechanisms are alternative, although, bank guarantees are never used in practice (in other words, all respective travel agencies use insurance as a method of protection).<br><br>On top of said primary security mechanism is a complementary (subsidiary) mechanism in form of the **Guarantee Fund** for the cases when the security proves inefficient. The Guarantee Fund is financed by obligatory contributions of travel agencies based on the planned revenue from sale of packages and LTAs and is **managed by the State Fund for Development of Housing with the** | Exceptions of coverage practically do not exist | According to Section 7b paragraph 2 of the Act No. 159/1999, organiser's/trader facilitating LTAs' and the insurer are requested to arrange for a security in such a way that the **insurance indemnity is equal to at least 30 % of planned revenue from sale of packages or from sale of packages in the last calendar year, whichever is higher**.<br><br>*[Risk assessment related to the following factors: risk profile of the organizer/trader in question and include the type of services sold, rating of the organizer/trader in question, volume of sales, distribution channels, financial collaterals provided by the organizer/trader to the insurance company, destinations of travel services and related potential costs of repatriation, amounts of* | With respect to the **insurance contracts** of travel organiser's/trader facilitating LTAs', these by law have to cover all risks connected to failure of the organiser's/trader facilitating LTAs' to provide respective services due to insolvency, i.e. provision of repatriation (in case of LTAs, only if the trader is responsible for transport), reimbursement of all payments made by traveller if the package/LTA was not provided, or | **YES** | **NO** | The costs of the repatriation typically do not need to be calculated with respect to individual travellers, because the insurer is required by law to directly arrange the repatriation, e.g., in relation to the traveller all costs are covered. Nevertheless, if the traveller arranges his or her own repatriation, the traveller | **NO** |

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| | | **Ministry for Regional Development**. Individual travel agencies are entitled to draw from the Guarantee Fund according to Section 10i of Act No. 159/1999 if the financial amount due to travellers exceeds the insurance indemnity. **In case that if the amount of finances in the Guarantee Fund proves to be insufficient** to cover said claims of respective insurers, under Section 10g para. 5 of Act No. 159/1999 the Guarantee Fund has to **obtain additional liquidity on financial market or can be provided a subsidy or financial aid from the state budget**. | | *prepayments accepted etc]* | reimbursement of all costs for paid but not provided part of the services. | | | is only liable for the payment of the real costs it would have had, if the repatriation had been provided by the insurer. | |
| **Denmark** | **NO** | There is only one protection mechanism, **The Danish Travel Guarantee Fund**, which is a **private body (Foundation) but on the guardianship of the State**. | Denmark does not have insurance contracts. However, if the **revenue** of the organiser/ trader | The foreseeable amounts of the insolvency protection (the size of the guarantee), including the foreseeable cost for repatriation, are **calculated on the basis of the turnover of the organiser or the trader facilitating** | The intention of the guarantee issued by the organizer/trader facilitating LTA's in favor of the Guarantee Fund is to | **NO** | **NO** | In case of bankruptcy, The Danish Travel Guarantee Fund will arrange and pay for | **YES -** The level of the guarantee is based on the revenue of the organizer in |

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| | | | facilitating LTA **does not exceed DKK 1 million, no guarantee shall be made in favour of the Danish Travel Guarantee Fund**.<br><br>. | **LTA's**. This method of calculation of the size of the guarantee is set out in Section 8(4) of RGF (1 EUR amounts to approx. 7,45 DKK):<br><br>If revenue does not exceed DKK 1 million, no guarantee is made.<br>If revenue exceeds DKK 1 million, but not DKK 5 million, the guarantee shall be DKK 150,000.<br>If revenue exceeds DKK 5 million, but not DKK 10 million, the guarantee shall be DKK 300,000.<br>If revenue exceeds DKK 10 million, but not DKK 15 million, the guarantee shall be DKK 600,000.<br>If revenue exceeds DKK 15 million, but not DKK 50 million, the guarantee shall be DKK 900,000.<br>If revenue exceeds DKK 50 million, but not DKK 100 million, the guarantee shall be DKK 1.35m<br>If revenue exceeds DKK 100 million, but not DKK 250 million, the guarantee shall be DKK 1.8m. | cover the Fund's risk, which is the prepayment amount from travel customers plus an additional cost to cover the costs of repatriation. | | | repatriation for customers who are already at their destination. Customers who arrange repatriation themselves are not guaranteed reimbursement of such costs. | question. Organisers/traders providing LTA's which annual income does not exceed 1 million DKK (approx. 133.000 EUR) shall register with the Danish Travel Guarantee Fund but is under no obligation to issue a guarantee in favour of the Fund. |

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| | | | | If revenue exceeds DKK 250 million, the guarantee shall be DKK 2.25m plus an additional DKK 1m for every 100m the revenue exceeds DKK 250m. | | | | | |
| **Estonia** | **NO** | The types of security provided in Estonia are **insurance** or **guarantee**. Security may be issued by an insurance company, credit institution or financial institution located in a Member State of the European Economic Area | No exceptions | % from the travel undertaking's planned annual total sales of packages (*Section 151 of the TA*):<br>Security shall be at least **7% from the planned annual total sales of packages**, where travel services are provided outside of Estonia and include charter flights and intermediation of packages combined by a travel undertaking of a state outside the EEA;<br>Security shall be at least **3% from the planned annual total sales of packages**, where travel services include travel services provided outside of Estonia and include scheduled flights.<br>**Security shall be at least 7% of the travel** | Management risks of a trader – no further information identified | **YES** - the amount of the security depends on the type of package sold and the mode of transportation included (charter flight, scheduled flight or transport, which is neither charter nor scheduled flight) | **NO** | The cost of repatriation depends on the fact how the repatriation of the traveler is arranged. The Consumer Protection and Technical Regulatory Authority would request for the price offers and from these offers the | **NO** |

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| | | | | **undertaking's planned annual total sales of packages**, where packages include travel services provided outside of Estonia, except for charter flights or scheduled flights. **Security shall be at least 3 % of the undertaking's planned annual total sales of linked travel arrangements;**<br><br>Requirement to **take the actual sales of previous year into account if these sales are higher than the planned annual sales** (*Section 151(6) of the TA)*<br><br>The insurance premium is calculated on the basis of the insurance amount and the financial capabilities of the travel undertaking.<br><br>There is **no minimum or maximum insurance premium** fixed | | (*Section 15 TA*) | | most optimal offer is chosen.<br><br>If the Consumer Protection and Technical Regulatory Authority arranges for the plane to take all the travelers back to Estonia, then the traveler would not incur any repatriation costs. If the traveler purchases a plane ticket back home, then the Consumer | |

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| | | | | | | | | Protection and Technical Regulatory Authority would verify why costs incurred (i.e. why the traveler did not return to Estonia with the means of transportation arranged by the Consumer Protection and Technical Regulatory Authority). In addition, if the costs of return of the traveler are excessive | |

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| | | | | | | | | (i.e. traveler purchased a business class ticket), then this may be a factor that is taken into account and may lead to the fact that not all the costs are compensated. | |
| **Finland** | **NO** | Organisers and/or traders facilitating LTAs should provide security, lodged with the Finnish Competition and Consumer Authority (FCCA), for the refund of all payments made by or on behalf of travellers insofar as the services are not performed as a consequence of the organiser and/or trader facilitating LTAs' insolvency (Sections 3(1), 3(3), 3(4) and 4(3) of MPT [which correspond to Articles 17(1) and (3) of the Directive]). The terms of the security, either first demand or escrow account, are defined in the law and must cover the trader's full exposure. In addition to | Travellers shall not be covered by the insolvency protection mechanism if claims guaranteed under the security are paid to the traveller under | The prepayments are calculated based on the trader's monthly sales, payment terms and number of passengers, taking into account when bookings are made and when payments are collected (payment terms for booking fee and final payments). A trader's security may be periodical to reflect seasonal variations, or it can be the same amount year-round. The adequacy of the security is checked regularly, and traders provide follow-up reports on their activities at least twice annually. All traders are also required to provide | The system relies on individual guarantees that cover a trader's exposure. There is therefore a risk that the security would be insufficient in an insolvency situation. Should this be the case, however, the state | **YES** | **NO** | Repatriation costs are included in the financial security the trader lodges with the FCCA.<br><br>Repatriation costs are calculated according to a principle of probability and based on a calculation formula that takes into account monthly | **YES** - Smaller companies have lower administrative costs since they are not required to provide audited financial statements according |

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| | | securities, Finland has a back-up system in the form of a State appropriation that covers repatriations and secures full compensation to travellers in the event that the security turns out to be insufficient. This appropriation is matched by an insolvency protection fee collected from registered traders annually. The insolvency protection fee is a percentage fee based on the turnover from sales of combined travel services (currently 0,024 %). Traders are also subject to an annual supervision fee determined on the basis of the maximum amount of the security calculated for the party liable for payment in the year preceding the payment year, as follows:<br><br>Amount of the security<br>Maximum EUR 10 000<br>Over EUR 10 000 and not exceeding EU<br>Over EUR 50 000 and not exceeding EU<br>Over EUR 200 000 and not exceeding E<br>Over EUR 1 000 000 and not exceeding<br>Over EUR 3 000 000 and not exceeding<br>Above EUR 10 000 000 | another Finnish legislation (*Section 10(5) of MPT*). | reports on the actual figures once a year.<br><br>Pursuant to Section 7 of MPT, a financially sound organiser may apply for reduced security, which means that the company may operate with a lower security than it computationally should, provided the trader fulfils certain conditions. Reduced security can be granted to a trader whose risk of insolvency is deemed low. Security is reduced by the amount by which the trader's equity exceeds the security imposed on it. The reduced security must, however, be at least 50% of the approved security amount.<br><br>As Finland employs a system on individual securities, no insurance premiums are calculated. No minimum or maximum security. | appropriation (funded by the insolvency protection fee) would cover it. | | | passenger amounts, travel destination and duration of trip.<br><br>Travellers do not have the right to compensation for repatriation if they fail to comply with the instructions on repatriation given by the Competition and Consumer Authority without justified reason. | to Section 25 of MPT referring to relevant provisions of the Auditing Act (1141/2015). Also, the supervision fees are staggered. Smaller businesses generally have lower security amounts, i.e., they pay lower fees. |
| **France** | **NO** | **Financial guarantees** (of banks, insurers, as well as the APST and UNAT). | There is no exceptions on coverage | There is no minimum amount required for the guarantee.<br>The amount of the financial guarantee is | **The risks covered are the risks of failure and insolvency** | **NO- All type of packages are** | **YES -** the retailers are require | The cost of repatriation are directly | **No. All compagnies have to be complete** |

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| | | *[The information below dates before the Covid-19 pandemic. It needs to be updated]*<br>There are currently about 39 guarantors in France for about 6688 professionals (information provided by the Ministry of Finance). These guarantors are comprised of banks, insurers, as well as the APST and UNAT: **APST** is the leader with 51% of the market share (of which 75% are travel agencies, the rest being tour operators, tourist offices and accommodation managers who do linked travel arrangements). The **APST is a non-profit association which is funded solely by membership fees Groupama** with around 2200 members. Groupama is an insurer. Travel insurance is only one aspect of the group's activities.<br>Spanish insurer **Atradius** (around 800 operators). Again, | in order to be in conformity with European law. | determined contractually in between the guarantor and the travel agencies. It depends of the business volume of the sales and the risk of the product sold.<br><br>applies according to | **of Travel agencies. Guarantee covers either repatriation, replacement with departure (when possible) or reimbursement.** | **covered as required by European Law** | d to have an insolvency protection. Regarding the relationship between the rules on the responsibility of the retailer and the organiser. It is Article L. 211-16 that states the rules of the responsibility, and it should be noted that both organiser and retailer have | calculated by the guarantors (cost of 5 million euros for the repatriation of the Thomas Cook customers in 2019) | **ly covered by a financial guarantor no matter of their size and volume of business.** |

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| | | travel insurance is just one of the group's activities.<br>**UNAT** is a guarantor for operators of the social and solidarity economy (mainly associations). It is also a non-profit association and is **funded by membership fees**<br>The rest of the guarantors are either insurers or banks, which provide generally a guarantee only for one operator (typically, a customer they have had for a long time).<br>**France also requires a professional liability insurance for the travel agencies.** | | | | | the same responsibility. Also, the same rules apply both for organiser and retailer without any distinction. | | |

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| **Germany** | No | The primary means of insolvency protection is a fund (Deutscher Reisesicherungsfonds) organized under private law as a limited liability company. All tour operators with annual sales of 10 million euros or more from the sale of package tours or LTAs must pay into this fund. The fund itself is under government supervision. | No exceptions | The amount of the contributions to the insolvency protection fund is based on the annual turnover of the respective company (currently 1%, which is the minimum contribution during the initial buildup phase of the fund till oktober 2027).<br>In addition, the tour operators must provide a security deposit, which is also based on the annual turnover (currently between 5% and 9%) and is utilized by the fund in the event of insolvency. This security can be provided by insurance or a bank guarantee.<br>After the buildup phase of the funds the contributions must be calculated in such a way that the target capital (cf. § 5 Reisesicherungsfonds gesetz) is not fallen short of. The funds must take into account the administrative costs and the insolvency cases to be expected in average years. After an above average insolvency case, the target capital of the funds must be reached again within a reasonable period of time (cf. § 7 II Reisesicherungsfonds gesetz). | The following risks are covered in case of insolvency of the tour operator:<br>•Payments of travellers for travel services that are cancelled<br>•Payments of travellers on request of service providers whose claims for payment have not been met by the tour operator<br>•Return transportation and accommodation until the time of return transportation (Repatriation) | No | No | The fund calculates repatriation costs based on travel provider data on the number of travellers, destinations and travel duration. The calculated costs per traveller for a certain destination are based on expert estimates. | Option to choose the means of insolvency protection (see column on type of insolvency protection) |

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| **Greece** | **NO** | **Insurance contract** covering both package travel contracts (Articles 16(1) and 16(3) of P.D. 7/2018 [which correspond to Articles 17(1) and (3) of the Directive] and LTAs (Article 18(1) of P.D. 7/2018, [which corresponds to Article 19(1) of the Directive]; Lodging of a **letter of guarantee** payable in favour of the Ministry of Tourism of Greece. Pursuant to Article 4 of Law 393/1976 "On the establishment and operation of Tourist Offices" (Government Gazette, 199 A), the licensing of a tourist agency requires, inter alia, to **lodge a letter of guarantee of EUR 5.000,00**, issued by financial institutions established either in Greece or in another EU member state and payable in favour of the Ministry of Tourism of Greece. According to Article 5(2) "The letter of guarantee shall be forfeited [...] to cover any consumer claims arising from their transactions with the | Occurrence of any risk, including insolvency due to **deceit or gross negligence of the recipient of the insurance or the insured or the beneficiary** of the insurance or the persons living with them or their legal representatives or their representatives or third parties who have been professi | The insurance premium is calculated according to the **probability law (mathematics) to cover the insurance risk**. The percentage of management costs, the percentage of profit of the insurance company and the commission of its brokers and insurance agents are added to this amount. In determining the premium, the pricing method followed by the insurance company through its actuaries is decisive. In Greece, the pricing method is limitless and is designed in accordance with the techno-economic needs of each enterprise (Article 148 (2) of Law 4364/2016). The usual factors that are taken into account in the calculation of the premium most of the times in the insurance contracts of the organiser/trader facilitating LTAs' are the following:<br>i. The **total number of clients handled last** | The risks that are usually covered by the insurance contracts of travel organiser's/trader facilitating LTAs' are the following:<br>i. **Repatriation costs** for travellers in the event of the **organizer's insolvency.**<br>ii. **Repatriation costs** for travellers in the event of the **organizer's bankruptcy.**<br>iii. **Professional Civil Liability** of the organiser (This coverage includes any reimbursement of the sums paid by the travellers for services | **N/A** | **YES** - The organiser and the retailer have joint and several liability for the performance of the contract. This means that the organiser and the retailer of the same package are obliged (each of them) to fulfil the contract in its entirety, but the traveller can be compensated | The cost for repatriation is defined by each insurance company in consultation with the recipient of the insurance (organiser/trader facilitating LTAs'). Usually this cost (from an examination of several insurance contracts) is set at up to **1.000,00 EUR per traveller**. In addition to this quantitative limit (per traveller), in the | **NO** |

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| | | tourist agency", including those resulting from the insolvency/bankruptcy of the tourist agency. Furthermore, article 5(1) states that "[...] The letter of guarantee, which has a duration of five years, states that its validity shall be automatically extended for a further semester after the date of withdrawal of the License of Operation for any reason, as well as if no other letter of guarantee valid for five years is submitted before its expiry". The letter of guarantee is not an alternative choice regarding the insurance contracts. **Both of these protection mechanisms are mandatory for the traders (travel agencies) in the Greek legal order**. However, according to the law, they serve **different purposes: a.** The **letter of guarantee** aims to protect consumers from any failure in the performance of the | onally entrusted with the safekeeping of insurance. A slight negligence of the insured persons may result in a reduction of the indemnity instead. Exception of coverage exists also when the insurance risk occurs due to the following circumstances: **(a)** War events or actions, | **year** (globally) for whom the organiser/trader facilitating LTAs'/provided a travel package. ii. The **gross income/fees/commissions received from clients** (for the past year, the current year an estimate for the next year). iii. A **description of the activities of the organiser/trader facilitating LTAs'**. iv. **Whether the organizer's activity concerns retail or wholesale market**. v. **Whether the organiser operates its own travel packages or sell travel packages to other travel agents or affinity and/or non-affinity groups.** vi.The involvement of organiser in the sale of Student and/or Adventure Tours (i.e. skiing, rafting, etc.). vii. The **existence of any claims against the organiser during the five past years**. The amount and the history of each claim. | not provided in the event of the organizer's insolvency/bankruptcy). iv. **Coverage of costs for deflecting legal claims**. | | only once according to Article 481 of the Civil Code. | insurance contracts, there is also a total cost limit for the repatriation of all travellers per event (of insolvency) / per period of insurance. **However, this cost limit varies considerably depending on the insurance company.** | |

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| | | contract by the trader– regardless of the cause of this failure;<br>**b.** The **insurance contracts** are intended to protect travellers from any failure in the performance of the contract by the trader that is caused by his/her insolvency / bankruptcy.<br>However, in practice, traders' insolvency insurance contracts cover generally all consumer claims arising from the trader's professional liability.<br>Regarding the letter of guarantee, the Greek legislation does not require the provision of a set of information to the consumer. **The only way for a consumer to find out about the existence of this protection mechanism is to consult a Greek lawyer with knowledge of tourism law**. In fact, the reimbursement through a letter of guarantee is done only after the final court decision.<br>It should be mentioned that this letter of guarantee is | civil war, revolution, popular riots [Article 13(1) of L. 2496/1997]. **(b)** Cases of force majeure: Earthquake, sedimentation, landslide, storm, tsunami, volcanic eruption or other natural phenomena. These exceptions are not provided in the Greek law, but they are included most of the times in the | viii. The awareness of any **circumstances which may give rise to a claim against** the organiser/trader facilitating LTAs'.<br>ix. **Copy of the organiser/trader facilitating LTAs' MoT** current license<br>x. **Company statute and the last two published balance sheets** if the organiser/trader facilitating LTAs' is an S.A. or an L.T.D. company.<br>xi. Fully detailed **Expense/Revenue Budget for the current year** if the organiser is an individual enterprise.<br>xii. The Company **Profile-the professional experience of the organiser** if he/she is an individual enterprise. | | | | | |

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| | | mandatory for every travel agency operating in Greece. Therefore, as mentioned in Article 2(3) of P.D. 7/2018, since carrying out LTAs requires for the traders to operate in the context of a travel agency, this letter of guarantee covers any monetary claims arising from LTAs' too. | insurance contracts. The insurance companies may not cover also travel packages performed by means of transport belonging to the organiser or leased by him, including reservations and related work for this purpose. The insurance companies do not cover | | | | | | |

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| | | | also the repatriation of travellers in cases where, for various reasons, travellers will have to return via another organiser/trader facilitating LTAs. | | | | | | |
| **Hungary** | **NO** | (a) **Financial security** which is without further conditions mandatory to establish for both organisers and traders facilitating LTAs. Three types (Article 8(1) of GD 213/1996): **guarantee contract** concluded with a credit institution; **one or more insurance contracts** concluded with an insurance service provider which may also be concluded for several passengers (directly for the | The insurance company is relieved from its obligation to provide **insurance coverage** (as per Article 6:464(1) of the Ptk) if it proves that the damage was caused | The national legislation does not provide for a mechanism to calculate the **insurance premium** and no minimum/maximum amount is set out in the national legislation. Concerning the financial security, no calculation mechanism needs to be set out. The amount of compensation to be received can be determined solely by taking into consideration the | Not specified within the national legislation | **N/A** | **NO** However, some rules apply to retailers in relationship to the activity of the organiser as a result of the protection being | **The national legislation does not set out a system for the calculation of the costs of repatriation** which are to be covered by the mandatory insurance | **NO** |

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| | | passengers as beneficiaries),<br>**cash deposit** – an amount of money separated and blocked by the travel entrepreneur with a credit institution for the purposes of insolvency protection.<br><br>The forms of financial security may be applied separately or also jointly (Article 8(2) of GD 213/1996).<br><br>(b) **Mandatory insurance** which organisers and traders facilitating LTAs are only required to take out if the services concerned also include the *carriage of passengers*. It is offered in the form of an **insurance contract**.<br><br>The system, overall, can be viewed as being composed of **two ISPs** which are also subject to different national provisions (Articles 8 and 10 of GD 213/1996 (financial security) and Article 9/A of GD 213/1996 | unlawfully, intentionally or by **grossly negligent conduct by** (exemplificatory list):<br><br>**(a)** the contracting party (the organiser or the trader facilitating LTAs) or the beneficiary (the traveller);<br>**(b)** a close relative of the above who lives in the same household, their member authorised to direct the business or the | amounts that have been paid as down payment or participation fee by the traveller in exchange for the services which remain unperformed as a result of the insolvency of the organiser or the trader facilitating LTAs.<br><br>The initial amount of the financial security, irrespective of its form (see the different forms explained above in question 3), must be provided until 31 December of the year in which the underlying contract is established.<br><br>The factors considered in the course of the **calculation** include:<br>the **place of start of the package**<br>whether a **border is crossed** in the package<br>**where the package is sold**<br>**whether the carriage of passengers is included**<br>the **amount of the net sales revenue of the travel entrepreneur** calculated in | | | provided through the organiser.<br><br>The Hungarian legal system does not require retailers to take out protection with respect to their own insolvency. According to the national provisions (Article 13/A of GD 213/1996), the retailer, when a traveller concludes a | . However, since these costs are covered by an insurance contract, the **calculation of the costs of repatriation is done in a procedure for the mitigation of costs**. | |

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| | | (mandatory insurance)).<br><br>An important difference and connection between the two ISPs is that the amount of **overall coverage in the case of the financial security** to be provided by the organiser or trader facilitating LTAs is directly calculated with a view to the annual net sales revenue, the type and location of holidays and trips and, ultimately, the amounts paid by travellers while **the amount of overall coverage of the mandatory insurance is capped in a percentage, 10% or 20% depending on whether a charter flight is used for carriage of passengers**, of the financial security provided by the organiser or trader facilitating LTAs. | employee, member or assignee with a position designated in the general terms and conditions of the insurance company; **(c)** in a beneficiary that is a legal person, the managing officer or the member, employee or assignee assigned to manage the ensured property item as specified in the general terms and conditions. | accordance with Act C of 2000 on accounting.<br><br>It is important to note that the national legislation **only considers domestic sales to account for the amount of the financial security and the mandatory insurance**.<br><br>**<u>Financial security</u>**<br>In accordance with the above categories, three main brackets of financial security are set out by GD 213/1996:<br>**1.**<br>**3% of the net sales revenue but at least HUF 500 thousand (approx. EUR 1,533.00) originating from sale in Hungary** of package travels combined by the organiser; commenced in Hungary; not involving crossing the border of Hungary<br>With respect to package travels which are not subject to point 1; combined by the organiser and sold in Hungary<br>**2.** | | | contract with the retailer, is required to pay within four working days the amount of the down payment, the further instalments of the entire fee or the entire fee to the organiser. | | |

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| | | | As for **guarantee contracts**, Article 6:436 of the Ptk provides for similar exceptions, however, employing a different regulatory technique. If, on the basis of the information available to the provider of the guarantee, the beneficiaries are clearly abusing the right of call or exercising it in bad faith, the provider of the guarantee | **12% of the net sales revenue but at least HUF 5 million (approx. EUR 15,336.00)** originating from package travels for the period covered which do not include the carriage of passengers;<br>**12% of the net sales revenue but at least HUF 7 million (approx. EUR 21,209.00)** originating from package travels for the period covered which do include the carriage of passengers, by road, rail or water or by scheduled flight or flights;<br>**3. 20% of the net sales revenue** but **at least HUF 50 million** (approx. EUR 151,495.00) originating from sale in Hungary of package travels combined by the organiser; concerning a trip or holiday from domestic territory abroad, or from abroad to abroad, provided that in the period covered: | | | | | |

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| | | | is not obliged to make a payment and may reclaim the payment already made.<br>It is noted that the national legislation, in particular the Ptk, does not provide for similar exceptions for the case of the **cash deposit** | Seats of a non-scheduled airplane (charter flight) are used to combine the package travel, irrespective of the place of departure of the journey,<br>Its obligations under the guaranteed contract exceed 25% of the annual turnover from the activities of the organiser.<br><br>Moreover, the highest net sales revenue shall be taken into consideration for the above calculation, provided that the net sales revenue accounted until 31 December of the year of the conclusion of the contract is less than: a) the net sales revenue in the previous year. or b) the forecast net sales revenue for the next year.<br><br>Where the travel entrepreneur is engaged in both activities in points 2 and 3 above, the higher amount shall be taken into consideration overall | | | | | |

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| | | | | for the calculation of the coverage for the financial security. However, the amount of the financial security shall be calculated separately where the activity in point 1 and an activity in point 2 or 3 are also engaged by the travel entrepreneur.<br><br>Adaptation in the case of increased risk for the financial security. Until 31 May each year, the travel entrepreneur is required to adapt the financial security to the level of annual net sales revenue of the year in which the financial security was created.<br><br>However, the financial security shall always cover the payments made by travellers in the form of down payment or participation fee. The amount of the financial security shall be raised based on the payments by travellers for which no service has been performed | | | | | |

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| | | | | yet where the overall amount of those exceeds the the **amount of the turnover underlying the certified financial security provided by the travel entrepreneur by at least 10%.** The calculation of the amount of raise is subject to the same rules as the calculation of the financial security itself.<br><br>**<u>Mandatory insurance</u>**<br>The national legislation does not set out detailed calculation requirements. It only lays down that the coverage provided by the insurance undertaking shall amount to **at least 10% of the financial security (as defined above) and in the case of the carriage of passengers by means of charter flights at least 20% of the financial security (as defined above).** | | | | | |
| **Italy** | **NO** | Two complementary mechanisms in place to protect consumers in case of insolvency: | The most usual exceptions of | There are no specific mechanisms in place in Italy to ensure that the insolvency | i. Total annulment of the journey: this coverage | In the practice of insuranc | **YES** - Both the organiz | The cost of repatriation is | **NO** |

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| | | 1. **Insolvency insurance protection scheme**, which is mandatory for travel traders under the Italian law implementing the Directive. This scheme is legally (and contractually) divided into two instruments:<br>(a) *traders' insolvency insurance contracts*, generally covering all consumer claims arising from the trader's professional liability; or<br>(b) *bank guarantees against the risk of bankruptcy/insolvency* [least used in practice]<br><br>The security can **be provided also by private guarantee funds**, which can be set up by insurance companies and/or market actors (e.g. **consortium of travel agencies** or LTAs).<br><br>Until July 1st, 2016, there was a **public guarantee fund managed under the supervision of the Ministry of Cultural** | coverage in the insurance contracts of organisers of travel packages/ traders facilitating LTAs (provided by law or contract) in order to cover the risk of their insolvency are the following:<br><br>Insolvency due to deceit or gross negligence of the party to the contract or the insured party or the beneficiary (Article 1892 of the Italian Civil Code | protection provides a sufficient cover compared to the size of the business of the individual organiser/trader. That means that there is no public control ex ante of the suitability of the insurance contracts and bank guarantees.<br><br>As a result, **everything depends on the practice of insurance companies**. Their practice shows that insurance companies consider the size of the business, the number of contracts or clients etc. to set the insurance premium in the individual case.<br><br>The variables to be considered in setting the premium are not fixed by law but depend largely on **the discretion of the insurer**. The practice of the insurance companies in respect of Recitals 39-40 and Article 17(1-3) normally consists in asking for a monthly premium on the basis | includes the full refund of the package price paid by travellers that could not use any service in the event of the insolvency/bankruptcy.<br>ii. Partial annulment of the journey: this coverage includes any reimbursement of the sums paid by the travellers for services not provided in the event of the insolvency/bankruptcy.<br>iii. Repatriation costs and other unforeseen extra costs (e.g. accommodation, meals etc.) for travellers in the event of the | e companies, the security requirements are calculated based on a process called risk assessment. A risk assessment of an insurance contract of an organiser/trader facilitating LTAs usually **takes into account factors such as the annual turnover of the business**, the | er and the retailer have to take out insolvency protection. This means that the organiser and the retailer of the same package are obliged (each of them) to provide the traveller with a security to refund all the payments received from the traveller or on his behalf | calculated on the basis of:<br><br>- **the cost of the return ticket**: if the traveller wants to return immediately, the insurance company may take charge of the return ticket directly (with no out-of-pocket money by the traveller), if the already existing return ticket is not useable by the traveller. However, some insurance | |

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| | | **Heritage and Tourism**, which had only very limited funding. After the abolishment of the public guarantee fund, many private guarantee funds have been built up. These private guarantee funds have been built up by multiple travel agencies business associations. That landscape is quite fragmented and not subject to public registration, so that it is impossible to exactly determine the number of the funds, the number of their members and the funds at their disposal.<br><br>While insurance providers, intended as financial institutions selling insurance products, are subject to the bulk of regulation collected in the Italian "Code of Private Insurances" (disciplining the company form, the liabilities, capital ratios etc.), this does not apply to private funds run by business | and exists in all insurance contracts as an exceptional clause, including insolvency protection schemes). The level of negligence could also determine a reduction of the compensation due in case of risk;<br>The insurance risk occurs due to the following circumstances: war (declared or not); revolution, popular riots; acts of | of the volume of contracts signed by the insured party in the previous year (taking into consideration also other data such as the business size, total annual turnover and number of clients) and by covering, for each single policy referred to in the PTC, all the payments made by the traveller to the insured party.<br><br>Under Article 47(4) of Chapter I of Title VI of Appendix I to Lgs.D. 79/2011 [which corresponds to Article 17(2) of the Directive], the security shall cover reasonably foreseeable costs, the amounts of payments made by or on behalf of travellers in respect of packages, taking into account the length of the period between down payments and final payments and the completion of the packages, as well as the estimated cost for repatriations in the event of the *organiser*'s or the | organizer/retailer/trader's bankruptcy | type of packages sold, including the mode of transport, the travel destination, the total number of clients handled in the previous year, the number of bookings per month, the experience of the managers etc. | for the travel package services in case of their insolvency or bankruptcy. In other words, the organiser could not be asked to cover the damages caused by the retailer's insolvency and vice versa.<br><br>Criteria for setting the insurance premiu | policies go for an ex-post reimbursement scheme. Both the two cases are allowed under Italian law, which does not specify anything in this respect;<br>- the **original documentation and receipts of all payments by the traveller, demonstrating the sums effectively paid due to the fact that an immediate return was not** | |

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| | | associations, which are under the sole control of their members and statutory organs (e.g., board of auditors).<br><br>Generally, the business association demands an **entry fee** (e.g., 50€) and then determine an **annual membership quota on the basis of the amount of package travel contracts intermediated or organised by the member in the previous year.**<br><br>2. General **contractual civil responsibility borne by travel organisers for all contractual obligations not performed** (Article 1218 of the Italian Civil Code), however, not covering obligations unperformed due to unforeseen unavoidable circumstances and considering the insolvency quota. This protection is of limited value for the consumer. | terrorism; acts of vandalism and looting; strikes; Cases of force majeure: earthquake, sedimentation, landslide, storm, tsunami, volcanic eruption, calamity and other events occurred in connection with energetic adjustments or transformation of atoms, either natural or artificially induced or other natural phenomena. | *retailer*'s insolvency or bankruptcy.<br><br>With regard to LTAs, as in the case of package travel contracts, the has to cover reasonably foreseeable costs, the amounts of payments made by or on behalf of travellers in respect of packages, taking into account the length of the period between down payments and final payments and the completion of the packages, as well as the estimated cost for repatriations in the event of the *trader*'s insolvency or bankruptcy.<br><br>**The insurance premium is calculated according to the probability law (mathematics) to cover the insurance risk**. The percentage of management costs, the percentage of profit of the insurance company and the commission of its brokers and insurance agents, are added to this amount. In | | | m seem to apply to both traders' and retailers' insolvency insurance policies. Traders and retailers are all jointly and severally liable for the performance of the contract, so that, if the organiser becomes insolvent and cannot perform the contract, traveller | **possible, and the traveller had to stay longer** (accommodation; meals etc.). | |

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| | | | | determining the premium, the pricing method followed by the insurance company through its actuaries is decisive. In the ***practice of the insurance companies***, the usual factors that are taken into account in the calculation of the premium (most of the times) in the insurance contracts of the organiser/trader facilitating LTAs' are the following:<br>i. The total number of clients handled in the previous year (globally) for whom the organiser/trader facilitating LTAs'/provided a travel package.<br>ii. The gross income/fees/commissions received from clients (for the past year, the current year an estimate for the next year).<br>iii. A description of the activities of the organiser/trader facilitating LTAs'. For example: a) Ticketing b) Hotel bookings (Local-in Greece) c) | | | s can ask the retailer to ensure the performance of the contract. The obligation to perform the contract is covered by the policy insurance for professional liability, which both organisers and retailers are mandated to have under Italian law. Should the retailer | | |

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| | | | | Hotel bookings (International, EU and other countries) d) Foreign Incoming Travel (Outgoing) - Organizing outgoing group tours e) FIT (Incoming) f) Group Travel (Outgoing)- Organizing incoming group tours g) Group Travel (Incoming) h) Cruise bookings i) Conferences & Incentives j) Adventure Holidays.<br>iv. Whether the organiser sells its travel packages directly or sells travel packages via travel agents.<br>v. The involvement of organiser in the sale of Student and/or Adventure Tours (i.e. skiing, rafting, etc.).<br>vi. The existence of any claims against the organiser during the five past years. The amount and the history of each claim.<br>vii. The awareness of any circumstances which may give rise to a claim against the organiser/trader facilitating LTAs'. | | | also go bankrupt, its insolvency protection would kick in. | | |

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| | | | | viii. Company statute and the last two published balance sheets if the organiser/trader facilitating LTAs' is an S.A. or an L.T.D. company<br>ix. Fully detailed Expense/Revenue Budget for the current year if the organiser is an individual enterprise<br>x. The Company Profile-the professional experience of the organiser if he/she is an individual enterprise.<br><br>**The security can be provided also by private guarantee funds, which can be set up by insurance companies and/or market actors (e.g. consortium of travel agencies or LTAs).**<br><br>In order to get access to the guarantee, market operators are requested to pay an annual fee and a monthly premium, which may be calculated on the basis of various parameters designed by each | | | | | |

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| | | | | guarantee fund, as there are no implementing provisions in addition to the transposition of the wording of the Directive. The private guarantee funds consider roughly the same variables as insurance companies to set the monthly premium, with all the diversities due to the bigger size of the financial assets and actuarial calculations characterizing insurance companies. | | | | | |
| **Ireland** | **YES –** Back-up fund not available for LTAs traders | The Commission for Aviation Regulation ("CAR") is responsible for licensing travel agents and tour operators.<br><br>It also administers an Irish scheme of protection for consumers of these companies. All tour operators and travel agents trading in Ireland are **required by law to be licensed and bonded** to buy or sell overseas travel | **N/A** | Concerning (a) and (b), both types of security are valid for not more than one year from the date of commencement, are available to the CAR for refund of travellers for a period of not more than 6 months following expiry where not replaced by a new security, and are available to the CAR regardless of when the package travel contract or LTA was made with the traveller | **N/A** | **YES** | **NO** | Costs of repatriation are calculated following submission of receipts proving reasonable expenses. On this point there are indications that in | **NO** |

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| | | contracts originating in Ireland to destinations outside Ireland or Northern Ireland.<br><br>All licensees are required to provide a **bond**. The current bond required from travel agents and tour operators is a **percentage of projected annual licensable turnover**.<br><br>Under this scheme, if a licensed travel agent or tour operator collapses, the costs of claims and associated administrative costs of processing those claims are paid from the bond that the firm posted when getting a licence.<br><br>The **size of the bond is 4 and 10 per cent of projected licensable turnover (PLTO) for travel agents and tour operators respectively. Should the bond be insufficient to fund all claims, the Travellers' Protection Fund (TPF) is used to** | | (Section 24(1) of Act No. 17/1995).<br><br>Both types of security shall be an amount that is **4% of the turnover of an organiser or a trader facilitating LTAs for the latest financial year**, or such other amount as shall satisfy the CAR is sufficient to comply with Section 22 or 22A, and shall **not be less than 4% and not more than 10% of the projected turnover of the organiser or trader for the year in which the security is being arranged** | | | | IE there is no a priori formula to calculate the cost of repatriation, but there is a sort of compensation a posteriori. | |

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| | | **fund the remainder.** The TPF was originally funded by a levy on tour operators, but since 1987 there has been no levy on the basis that the Fund was always deemed to be sufficient to provide financial protection to customers.<br><br>As noted above, the Travellers' Protection Fund acts as a **back-up** when bonding is insufficient to cover all claims in the event of an insolvency. It has not been replenished since 1987 and has been **depleted by almost 80% in the last decade**.<br><br>**Linked Travel Arrangement providers such as airlines are unable to access the Travellers' Protection Fund under the current legislation and have obtained insurance to comply with legislation.**<br><br>The security provided by organisers and traders facilitating | | | | | | | |

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| | | LTAs can take one or more of the following forms:<br><br>(a) A sum of money **deposited in a bank or financial institution** in Ireland in the sole name of the Commission for Aviation Regulation which shall, in the event of the insolvency of the organiser or the trader, be fully and exclusively available to the CAR, without restriction or condition;<br>(b) **a contract of guarantee secured with an insurance** undertaking or the holder of a licence or authorisation referred to in the national legislation (i.e. a bank) which shall, in the event of the insolvency of the organiser or trader, be fully and exclusively available to the CAR, without restriction or condition; or<br>(c) **a contract for insurance secured with an insurance undertaking**, the proceeds of which shall, in the event of | | | | | | | |

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| | | the insolvency of the organiser or trader, be fully and exclusively available, without restriction or condition. | | | | | | | |
| **Latvia** | **YES** | In Latvia there are two complementary protection systems, requiring organisers to provide security in the form of an **insurance policy** issued by insurer or a **guarantee** issued by a credit institution AND **security for travellers' repatriation** in accordance with Article 19(1) of the Directive (see the transposing national measure Article 16(3) of the Tourism Law)<br><br>The two mechanisms (in case of organisers) are **complementary, requiring organisers to provide both**.<br><br>As to the former, e.g., insurance policy or bank guarantee, pursuant to Point 34 of Regulations No. 380, an increased amount of security must be provided by the | The usual exceptions of coverage **insurance contracts** (irrespective of whether they have been provided to organiser/ trader facilitating LTAs) will differ from one insurance company to another, however, the most common grounds include, but are not limited to deceit, fraud, gross negligenc | 1. The amount of security for organiser or provider of linked travel arrangements, that does not offer passenger transport, shall be:<br>not less than the amount of advance payments made by travellers or on behalf of travellers for package and linked travel arrangements in accordance with all concluded and unfulfilled contracts.<br>**In addition, it is ensured that the amount of security is at least 5% of the turnover of package or linked travel arrangements in the previous year** (operating income from sale of package or linked travel arrangements to travellers), **but not less than EUR 3,000** if travel services are provided only in the territory of | In addition to the standard risks covered by insurance policies, the following specific risks are usually covered by the insurance contracts of traders facilitating LTAs: (i) estimated repatriation costs in the event of the traders' facilitating LTAs insolvency, provided the trader facilitating LTAs provides transportation services.<br><br>As noted, organisers are required to pay a separate | **YES** | **NO** | The costs of repatriation are calculated from the data available on organisers/traders facilitating LTAs net turnover. The costs are determined by grouping (as per they turnover) organisers/traders facilitating LTAs, looking at their yearly turnover, calculating the amount of | **NO** |

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| | | organiser or trader facilitating linked travel arrangements if it is engaged in the carriage of passengers.<br><br>As to the latter, organisers are required to obtain a special **licence** (section 2 of Regulation No. 380), the cost of which for one organiser is **EUR40 per year**.<br><br>Traders facilitating linked travel arrangements are solely required to **provide security in the form of an insurance policy** issued by insurer or a **bank guarantee** issued by a credit institution. The risk of repatriation is included in such a security.<br><br>Thus, only organisers are bound by the complementary mechanism providing **two sets of securities** → insurance policy/bank guarantee + state fee for licence covering repatriation expenses. | e, force majeure, lost profits etc..<br><br>As to the security in form of a **bank guarantee**, there is no set of general exceptions that such a security may provide | the Republic of Latvia**, or**<br>**EUR 5,000** if travel services are provided only in the territory of the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania, or<br>**EUR 15,000**, if travel services are provided outside the territory of the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania, or<br>**EUR 30,000**, if travel services are provided in a country that is not a country of the European Union or the European Economic Area, the Swiss Confederation or the United Kingdom<br>or<br>**EUR 200,000** if the tour operator organizes charter flights.<br>2. **If the provider of a linked travel arrangements offers passenger transport**, the **amount of the security shall be not less than the amount of advance payments made by travelers or on** | state fee in the amount of 40 EUR that is used to cover repatriation costs, thus their insurance policies are not required to cover repatriation costs. | | | packages (as opposed to the total number of travel services provided) and applying different elements (duration of package; seasonality factor etc.) to calculate repatriation expenses for one organisers/traders facilitating LTAs within the respective group. Based on the experience of Estonia and Lithuania, evidencing that | |

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| | | Traders facilitating LTAs are only required to provide insurance policy/bank guarantee in which the risk of repatriation is included. | | **behalf of travelers for package and linked travel arrangements in accordance with all concluded and unfulfilled contracts. In addition, it is ensured that the amount of security is** at **least 10% of the turnover of the linked travel arrangements in the previous year**, but not less than **EUR 5,000** if travel services are provided only in the territory of the Republic of Latvia, **or EUR 10,000** if the travel services are provided only in the territory of the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania, or **EUR 20,000** if the travel services are provided outside the territory of the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania or **EUR 50,000, if travel services are provided in a country that is not a country of the European Union or** | | | | repatriation may be necessary on average once a year (N/B Latvia has not witnessed any cases requiring repatriation of a traveller due to insolvency of organiser/trader facilitating LTAs ), and taking into account all risks, **the average yearly repatriation costs constitute 16,438.36 EUR**. | |

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| | | | | **the European Economic Area, the Swiss Confederation or the United Kingdom**<br>**or**<br>**EUR 200,000 if the provider of a linked travel arrangements organizes charter flights.**<br><br>**3.** The security for organiser and the provider of linked travel arrangements that **commences economic activities in the field of travel services shall be EUR 3,000** if travel services are provided only in the territory of the Republic Latvia, **EUR 5,000** if travel services are provided only in the territory of the Republic Latvia, the Republic of Estonia and the Republic of Lithuania, **EUR 15,000** if travel services are provided outside the territory of the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania, **EUR 30,000**, if travel services are provided | | | | | |

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| | | | | in a country that is not a country of the European Union or the European Economic Area, the Swiss Confederation or the United Kingdom. **EUR 200,000** if the tour operator or provider of a linked travel arrangements organizes charter flights<br><br>If any of the characteristics mentioned in the previous points coincide, the correspondingly larger amount of collateral shall be determined. According to the information provided for in the ex**-ante impact assessment report (abstract) of Regulations No. 380**, the amount of security is determined by taking into account the following several factors:<br>*(i) repatriation costs are covered from the pool of payments for the yearly licence; (ii) the total number of active organisers and traders facilitating* | | | | | |

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| | | | | *LTAs in Latvia; (iii) the total amount of turnover of such organisers and traders facilitating LTAs in Latvia; (iv) average costs of a package travel service in Latvia; (v) the cost of insurance policy (amounts to 2% of the insurance coverage); (vi) number of packages purchased in Latvia; (vii) on average 20% of a travel/trip price is paid for by means of a down payment, whereas the remaining sum not later than 30 days before the start of the travel/trip; (viii) the sector is characterized by seasonality that during summer may increase up to 3 times.*<br><br>Taking into account the said factors, the amount of security is calculated pursuant to the following formula: **Amount of security = net turnover of packages * down payment % (15-30% each individually) * 1/12 (due to being paid before the start** | | | | | |

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| | | | | **of the travel/trip) * 3 (seasonality rate).** The Center can decide freely at its own discretion whether the provided security is sufficient for meeting organisers'/traders' facilitating LTAs obligations in case of insolvency. The organiser/trader facilitating LTAs shall immediately increase the amount of the security according to the information provided by the Consumer Rights Protection Centre. | | | | | |
| **Lithuania** | **NO** | The package travel or LTAs can either be protected by means of: a **suretyship insurance** (from an insurance company) or a **financial** guarantee (from a financial institution, e.g., a bank) or by **both at the same time**<br><br>They serve the same purpose and are **considered to be the** | The security shall **not cover**: **damages suffered by the tourist** as a result of the services offered by the tour organiser being of | A **mathematical method** is used that estimates the sum insured **depending on the turnover of the tour organiser or the vendor of LTAs**. More precisely, this method is established in the rules of Articles 13 and 23 (since 01/05/2023 Article 24) of Law VIII-667, explained below.<br><br>**<u>Package travel contract</u>** | The risks that are covered by the suretyship insurance contract and/or the financial guarantee of travel organiser/vendor of LTA in the case of insolvency, bankruptcy proceedings | **Package travel contracts** The amount of the security **depends on whether the tour organiser provides local** | **NO** | The **SCRPA** represents tourists' interests in the event of tour organiser's/vendor of LTAs insolvency or bankruptcy and **organise** | **NO** |

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| | | **same insolvency protection mechanism**.<br><br>The standard form of the financial guarantee was adopted by the State Consumer Rights Protection Authority (hereinafter 'SCRPA'), while no such standard form is present with regard to the suretyship insurance.<br><br>Moreover, Lithuanian bankruptcy law establishes a general **redress mechanism for all creditors**. This is, however, **NOT a specific insolvency protection mechanism with regard to the Directive**. If, hypothetically, the insurance company does not cover all the tourists' losses, it would be possible to join the creditor list in bankruptcy proceedings.<br><br>However, in practice, this is only a formal remedy as there is no money left for such a creditor at the end of | insufficient quality; **non-material damages** suffered by the tourist; damages suffered by the tourist **where**, in the cases provided for in the Civil Code and/or in a package travel contract, **the tour organiser is not held liable for the non-fulfilment of obligations undertaken in respect of the tourist**; damages suffered by the | The **tour organisers** established in Lithuania shall have a **valid suretyship insurance and/or a financial guarantee**.<br><br>The tour organiser who provides only local and inbound tourism services or since 01/05/2023 only inbound tourism shall have a security, which is a **minimum amount of EUR 3000**.<br><br>The tour organiser who provides outbound tourist services (including the tour organiser who provides mixed outbound, inbound and local services) or since 01/05/2023 only inbound tourism shall have a security, which must be the greatest of the following:<br><br>**i. EUR 50 000**, where no charter flights are organised; since 01/05/2023 EUR 20 000, if annual turnover of the tour organiser is less than EUR 1 000 000; only inbound tourism EUR 3 000; | being taken against them, initiation of extrajudicial bankruptcy or liquidation proceedings or the death (in the case of a natural person) are the following: **repatriation** costs; necessary **accommodation** costs until the tourist is returned to the initial place of departure; **refund of the sum of money paid by the tourist for travel services not provided**.<br><br>With regard to a vendor of **LTAs**, the insurance and/or guarantee also covers the **money** | **or outbound or inbound tourist services or both** (Article 13(1), (2) and (3), since 01/05/2023 Article 13(1), 13(2), 13(3) and 13(4) of Law VIII-667).<br><br>Moreover, the **minimum amount of the security depends on whether the outbound tour organis** | | **s the repatriation of tourists** to their initial point of departure.<br><br>According to point 6 of Order 4-513, the SCRPA, having approved the repatriation schedule, shall enter into a contract with the carrier of passengers of its choice for the return of the tourist(s) to their initial destination, taking into account the **most** | |

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| | | bankruptcy proceedings. | tourist as a result of **services not included in the package not being provided** by the tour organiser (Article 15(3)).<br><br>According to Article 15(7), the **insurance company and the financial institution shall have the right not to pay the suretyship insurance benefit** and/or the amount covered by the financial guarantee **when the** | **ii. EUR 200 000**, where charter flights are organised;<br>**iii. 7% of the sum of revenue from the last four most recent completed consecutive quarters** from the sale of package travel in accordance with all the package travel contracts signed by the tour organiser;<br>iv. the **total cash receipts received under all package travel contracts signed by the tour organiser** and which have not yet been executed.<br><br>Based on the above information, the **minimum amount of the security is either EUR 3,000, 20,000, 50,000 or EUR 200,000** (depending on whether the tour organiser provides charter flights or not).<br><br>However, **point (iii) or (iv) shall apply, if the amount is greater than the minimum amount**. | **paid for improperly provided service**. However, as previously mentioned, this is not in line with the Directive. | **er offers charter flights or not** (Article 13(2)(1) and (2)(2) , since 01/05/2023 Article 13(3)(1) and (3)(2) of Law VIII-667). Also, the revenue from the last four most recent completed consecutive quarters from the sale of package travel in accordance with all the package travel contract | | **economically advantageous and time-optimised offer of the air carrier or bus carrier**.<br><br>Unless, depending on the situation, the tourist returns to the initial place of departure independently. In that case, he can claim the money back in accordance with the procedure explained under points<br><br>The repatriation costs | |

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| | | | **losses are fully compensated by the tour organiser, vendor of LTAs or the third party or to reduce the suretyship insurance benefit in proportion to the amount paid by the tour organiser, the vendor or LTAs or the third party**.<br><br>The right to claim the surety insurance benefit or part thereof shall pass to the | *[The explanatory note of the Ministry of the Economy provides for an example. If the sum of revenue from the four quarters is EUR 1 million, then 7% of that amount would be EUR 70 thousand. If the total amount of revenue on day X equals EUR 120 thousand, and according to the arithmetic logic, the security amount 'shall be whichever is the greatest' (EUR 70,000 < EUR 120,000) Thus, the amount of the security should be EUR 120 thousand (unless the tour organiser provides charter flights)].*<br><br>**<u>LTAs</u>**<br>**The minimum security of a vendor of LTAs shall be EUR 10,000**.<br><br>However, if the vendor is a party responsible for the carriage of passengers, the amount of the security shall be calculated in accordance with Article 13(2)(1) since | | s signed by the tour organiser, as well as the sum of cash receipts received under all package travel contracts signed by the tour organiser (and which have not yet been executed) are taken into account (Article 13(2)(3) and (2)(4), since 01/05/2023 Article 13(3)(3) and (3)(4) of Law | | will be calculated based on the supporting documents the tourist provides to the SCRPA. | |

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| | | | third party in accordance with the procedure established by the Civil Code. | 01/05/2023 Article 24(7) of Law VIII-667 (which is equal to **EUR 50,000**). Moreover, Article 20(3)(4) since 01/05/2023 Article 21(3)(4) of Law VIII-667 provides that the amount of the security has to correspond to the minimum amount of security (i.e. **EUR,10 000** or **EUR 50,000** (if the vendor is responsible for the carriage of passengers)) **or the sum of cash receipts of the vendor under all contracts signed by the vendor of LTAs and not yet executed**. **This means that, if the sum of cash receipts is greater than the minimum amount, then the former sum shall apply to the security**. | | VIII-667).<br><br>**LTA** LTAs The minimum amount of the security **depends on whether the vendor of LTAs is responsible for the carriage of passengers or not** (Articles 23(3) and (4) of Law VIII-667 since 01/05/2023 Articles 24(6) and (7) of Law VIII-667). | | | |

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| | | | | | | Moreover, Article 20(3)(4) and since 01/05/2023 Article 21(3)(4) of Law VIII-667 provides that the amount of the security has to correspond to the minimum amount of security or the sum of cash receipts of the vendor under all contracts signed by the vendor of LTAs and not yet executed | | | |

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| **Luxembourg** | **NO** | **Insurance contracts** as a mechanism of guarantee for 'package' travel contracts and security for LTAs | The Law of 27 July 1997 on Insurance Contracts provides, unless otherwise provided in the insurance contract, exceptions of coverage when the insurance risk occurs due to the following circumstances: • when damages have been caused intentionally (Article 14) – damages caused as a result of negligence (even gross) of the recipient of the | The national measures do not provide any indications as to how to calculate insurance premiums in Luxembourg since these calculations fall within the freedom to conduct business in Luxembourg. However, it is to be presumed that the insurance premium is calculated according to the probability law (mathematics) to cover the insurance risk. | N/A | N/A | **NO** It is only in the cases of Article 20 of the PTD, where the retailer may be held liable under the conditions therein. | The cost or repatriation is defined by each insurance company in consultation with the recipient of the insurance (organiser/trader facilitating LTAs'). | **NO** |

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| | | | insurance or the insured or the beneficiary of the insurance should be covered by the insurer, unless the insurance contract explicitly and restrictively provides otherwise; • war or by any other circumstance of similar nature and by civil war (Article 15) | | | | | | |
| **Malta** | **YES** | Package Travel Insolvency Fund Regulations (S.L. 419.19) established the **Insolvency Fund** in 2018<br><br>The Fund was set up by the Insolvency Fund Managing Board which | N/A | The Managing Board of the Fund may decide from time to time the amount of coverage that package travel organisers have to pay to the Fund (Regulation 8 (6) of S.L. 409.19 ). Currently, in | Not specified by law | **NO** | **YES -** Regulation 12 (1), second para. of S.L. 409.19 provides that when a package travel | It is calculated at the discretion of the Management Board of the | **NO** |

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| | | is appointed by the Minister responsible for tourism and consists of five voting members (appointed in terms of S.L. 409.18) (two persons nominated by the Malta Tourism Authority, two persons nominated by the Federated Association of Travel and Tourism Agents of Malta (FATTA) and one person nominated by the Minister responsible for tourism)<br><br>All package organisers are obliged to contribute to the Insolvency Fund. LTAs facilitators are not legally obliged to contribute to the Fund. The latter, in any case, are required to provide a security cover for pre-payments (e.g., in the form of an insurance contract). This aspect, however, is not regulated or specified by law. | | accordance with Point 6 of the current Terms of Reference and Proceedings of the Managing Board of the Package Travel Insolvency Protection Fund for Travellers,<br><br>*"every licenced travel agent (used in its wide sense to include all package travel organisers/retailers) shall deposit a cash bond of **EUR 10,000** into the fund".*<br><br>Such bond remains in the fund until the agent relinquishes the licence, unless there is claim on the Fund resulting from the agent's insolvency.<br><br>Regulation 8 (8) of S.L. 409.18 provides that the Fund must at all times be kept at a **minimum threshold of five hundred thousand euro**, or any other higher amount as shall be determined by the Malta Tourism Authority or Minister for tourism from time to time. | | | contract is sold by a retailer, the retailer is also responsible for the performance of the package and any provisions applicable to the organiser in so far as insolvency protection is concerned, are also applicable to the retailer. | Insolvency Fund | |

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| **Netherlands** | **YES** | There are currently four privately-funded security funds operating in the Netherlands, which may be joined by organisers:<br><br>**SGR** (Stichting Garantiefonds Reisgelden)<br>**GGTO** (Garantiefonds voor Gespecialiseerde Touroperators)<br>**STO** (Stichting Take Over)<br>**HISWA** (HISWA boekingsgarantie)<br><br>These security funds are all endorsed by the Authority for Consumers and Markets (Autoriteit Consumenten en Markt, ACM). These security funds guarantee the re-payment of all payments made by travellers or on their behalf for any not yet performed travel service, regardless whether the insolvency takes place before or after the start of the travel. GGTO and HISWA offer insolvency protection | The usual exceptions are:<br><br>- Airline tickets which are not part of a package<br>- Consumers who cannot provide a booking confirmation or a proof of payment<br>- Consumers can recover the loss from third parties<br>- Amount limit: 12.500 Euro per consumer per claim; 10.000 Euro per consumer per consumer contribution to | As the security funds are private, there are no specific requirements for the calculation of the amount of security that they need to comply with nor do they ask for additional contributions in case of increased risks.<br><br>It is left to the security funds to decide what contributions from their members they require to cover any foreseeable financial difficulties of their members.<br><br>**SGR** calculates the fee for the participation in their security fund mainly **based on the annual turnover of the trader** (275 Euro for annual turnover between 0-0.25 million Euro; 798 Euro for annual turnover between 0.25-2.50 million Euro; 1476 Euro for annual turnover between 2.50-12 million Euro; 2250 Euro for annual turnover between 12-50 million Euro; 5250 Euro for annual | Not specified | Not specified | **NO** | The costs of repatriation are not pre-calculated, but rather paid on the basis of invoices for the actual costs of the repatriation of travellers.<br><br>Dutch law **does not specify to what place the repatriation needs to be guaranteed** – whether to the place of traveller's residence or to the place of departure for the travel. This has not been further specified in any of the documentation available on the websites of the security funds. In | **YES** - there is a special security fund set up that facilitates smaller package travel organisers – GGTO. Joining the security fund requires a one-time payment of 400 Euro. The annual payment is 0.125% of the turnover from selling packages in the previous financial year, with a minimum of 250 Euro. If a trader joins the security fund during the year, they pay a proportion of the fee, appropriate to the amount of months that they will participate in the fund. Every booking that travellers make (regardless |

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| | | only to traders that are package organisers; SGR and STO also to LTAs facilitators.<br><br>Furthermore, organisers and LTA traders are also allowed to take other measures to ensure sufficient insolvency protections<br><br>The Dutch legislator allows organisers to arrange for other insolvency protection than joining one of the existing security funds. For example, they could join a foreign security fund, arrange for additional insolvency protection insurance cover from a big insurance company, and provide a sufficient bank deposit to another party, who then takes over the obligation to help travellers in case of insolvency. It is, however, uncommon for traders in the Dutch travel sector not to join one of the private security funds, but to take a private insurance instead. | insolvency protection scheme<br>- Payments made to the organiser after it has been published in the media that the organiser is in financial inability<br>- Payments made to the organiser in advance contrary to its terms and conditions<br>- Payments that are not part of travel costs: insurance premiums, policy fees, | turnover between 50-100 million Euro; and if the annual turnover is higher than 100 million Euro than the fee is calculated upon request). If a trader joins the security fund during the year, they pay a proportion of the fee, appropriate to the amount of months that they will participate in the fund. A trader needs to pay a fixed amount of 30 Euro per every office or website they conduct their business from.<br><br>**STO** – to join STO, travel companies pay one-time 75 Euro. Thereafter, STO charges travel companies an annual fee of 75 Euro. Additionally, every booking that travellers make via Certo Escrow costs between 9-12 Euro, depending on the package.<br><br>GGTO – joining the security fund requires a one-time payment of 400 Euro. The annual payment is 0.125% of the turnover from | | | | the interviews it has been confirmed that repatriation is offered if the traveller has already started their package travel and the continuation of the travel cannot be guaranteed. The costs of repatriation are covered based on the expenses to repatriate the travellers | how many travellers are involved with one booking) has to include a charge of 15 Euro for GGTO, unless the booking is for an amount higher than 10.000 Euro, as then the charge is 15 Euro for every 10.000 Euro |

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| | | | costs of changes, telephone costs, credit card costs, security deposits, legal costs, interest costs, costs for acquiring visas etc.<br>- Bookings made on the basis of lotteries, saving stamps, airmiles, not paid for in cash or by bank transfer<br>- Vouchers that have not resulted in a booking | selling packages in the previous financial year, with a minimum of 250 Euro. If a trader joins the security fund during the year, they pay a proportion of the fee, appropriate to the amount of months that they will participate in the fund. Every booking that travellers make (regardless how many travellers are involved with one booking) has to include a charge of 15 Euro for GGTO, unless the booking is for an amount higher than 10.000 Euro, as then the charge is 15 Euro for every 10.000 Euro | | | | | |
| **Poland** | **NO** | According to Article 7(2) of the PTA, there are several ways in | *Not specified* | ***Bank guarantee***<br>In Poland the amount to be covered (the | The discussed securities are | **YES** | **NO** | *Not specified by law* | **NO** |

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| | | which the Polish tour operators and entrepreneurs facilitating linked travel arrangements may secure the continuation, refund of the costs of the travel contracts and repatriation in case of their insolvency.<br><br>***First pillar of the security***:<br>Taking out a **bank guarantee** or *insurance guarantee* in accordance with the model form and the provisions laying down the minimum guarantee amount or (Art. 7(2) point (1) of the PTA)<br>Taking out an **insurance policy** covering travellers in accordance with the model form and the provisions laying down the minimum insurance amount or (Art. 7(2) point (2) of the PTA)<br>Concluding an amount concerning a **travel escrow account** in accordance with the model agreement and receiving the travellers' payments exclusively | | minimum amount) by a bank guarantee or insurance guarantee that underlies travellers' protection is **determined by the minister competent for financial institutions acting in agreement with the minister competent for tourism by way of a regulation**, after consulting the Polish Insurance Chamber (Regulation of the Minister for Development and Finance of 27 December 2017)<br><br>***Insurance covering travellers***<br>An insurance policy covering travellers is determined by the minister competent for financial institutions acting in agreement with the minister competent for tourism by way of a regulation, after consulting the Polish Insurance Chamber. The Regulation lays down the *minimum amount of insurance covering* travellers depending on the type of the | aimed at covering the costs incurred by the travellers in the event of the insolvency of travel companies.<br><br>According to the Polish law, the different types of securities cover the same risks In addition, the Polish Ministry of Sport and Tourism replied: 1) the covering of the costs of package continuation or of the travellers' repatriation, including in particular the costs of transport and accommodation, also covering reasonable | | | | |

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| | | to that account, if performing packages or facilitating linked travel arrangements provided only in the territory of the Republic of Poland;<br><br>***Second pillar of the security***:<br><br>Payment of due contribution to the **Tourist Guarantee Fund**. Whereas the first three methods function alternatively (first pillar) and depend on the choice of the tour operator and entrepreneurs facilitating linked travel arrangements, the **fourth method (second pillar) is conceived as a source of protection when all the previous securities do not suffice to cover all the costs of the travellers**. | | service, the nature, scope and type of activities conducted by tour operators and entrepreneurs facilitating linked travel arrangements as well as on the time and amount of prepayments received from travellers by tour operator and on the **declared annual revenue from the provision of packages and facilitating linked travel arrangements**, taking into account the need to ensure the appropriate protection and security for the travellers and sufficient funds to cover the costs and refund the payments.<br><br>***Contributions to the Tourist Guarantee Fund***<br>Poland's security system for travel package contracts consists also of the establishment of the Tourist Guarantee Fund (functioning as the II pillar of the security system). In line with Article 36(9) | costs incurred by the travellers when the tour operator or entrepreneur facilitating linked travel arrangements fails to ensure such continuation or repatriation as required, 2) the refund of payments made for the package or for every service that has been paid for to an entrepreneur facilitating linked travel arrangements if, for causes attributable to the tour operator, entrepreneur facilitating linked travel arrangements or persons acting on their behalf the package | | | | |

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| | | | | of the PTA, similarly to the above-mentioned regulations, the minister for financial institutions acting in agreement with the minister for tourism, after consulting the Insurance Guarantee Fund, stipulated in the Regulation on contributions to Travel Guarantee Fund the amount of the contribution to the Fund. The amounts are established taking into account the nature of activities conducted, type of service, place of performance of the package or linked travel arrangement, mode of transport and the type of means of transport provided, as well as the need to ensure the appropriate protection and security to travellers and having regard to the Fund's financial needs linked to the performance of its tasks, with the possibility of setting the minimum contribution at **PLN 0**. The Regulation specified the | or any service that has been paid for to an entrepreneur facilitating linked travel arrangements has not or will not be performed, 3) the refund of the part of payments made for a package corresponding to a part of the package or for every service that has been paid for to an entrepreneur facilitating linked travel arrangements corresponding to a part of the service that has not or will not be performed for causes attributable to the tour operator, entrepreneur facilitating | | | | |

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| | | | | contribution rates which shall apply to the conclusion of different types of package travel contracts (**between 0 PLN to 15 PLN approx.3.47 EUR**).<br><br>The minimum level of the bank guarantee or insurance guarantee required in connection with the activity carried out by tour operators and businesses facilitating the procurement of linked travel arrangements ranges/is:<br><br>**0.5 % of the annual revenue** obtained from facilitation of the procurement of linked travel arrangements in states sharing a land border with Poland (in the case of Russia - within the Kaliningrad region and on Polish territory), if no transport service is provided but not less than the equivalent of EUR 600 for travel companies which accept payment exclusively upon completion of the | linked travel arrangements or persons acting on their behalf. | | | | |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
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| | | | | package travel or linked travel arrangements. **Up to 20.0 % of the annual revenue obtained from organisation of package travel using air charters in the European states** listed in the Appendix to this Regulation and in non-European states, but not less than the equivalent of **EUR 250,000 for travel companies which request prepayment for future package travel or future linked travel arrangements in an amount corresponding to more than 30 % of the price of the package travel or linked travel arrangements more than 180 days prior to the start of the package travel or provision of linked travel arrangements**. The equivalent of **EUR 950** applies to **travel companies which accept payment exclusively upon completion of the** | | | | | |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
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| | | | | **package travel or linked travel arrangements and which commence an activity**: facilitation of the procurement of linked travel arrangements in states sharing a land border with Poland (in the case of Russia - within the Kaliningrad region and on Polish territory), if no transport service is provided.<br>The equivalent of **EUR 250,000 applies to travel companies which commence the activity**: organisation of package travel using air charters in the European states listed in the Appendix to this Regulation and in non-European states.<br><br>The minimum level of insurance taken out on behalf of travellers required in connection with the activity carried out by tour operators and businesses **facilitating the procurement of linked travel arrangements** ranges fully corresponds to | | | | | |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
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| | | | | the minimum level applicable for insurance or bank guarantees and is: **From 0.5 % of the annual revenue obtained from facilitation of the procurement of linked travel arrangements** in states sharing a land border with Poland (in the case of Russia within the Kaliningrad region and on Polish territory), if no transport service is provided but not less than the equivalent of EUR 600 for travel companies which accept payment exclusively upon completion of the package travel or linked travel arrangements. **Up to 20.0 % of the annual revenue obtained from organisation of package travel using air charters** in the European states listed in the Appendix to this Regulation and in non-European states, but **not less than the equivalent of EUR** | | | | | |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
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| | | | | **250,000 for travel companies which request prepayment for future package travel or future linked travel arrangements** in an amount corresponding to more than 30% of the price of the package travel or linked travel arrangements more than 180 days prior to the start of the package travel or provision of linked travel arrangements. **The equivalent of EUR 950- for travel companies which accept payment exclusively upon completion of the package travel or linked travel arrangements and which commence an activity of facilitation of the procurement of linked travel arrangements** in states sharing a land border with Poland (in the case of Russia within the Kaliningrad region and on Polish territory), if no transport service is provided. | | | | | |

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| | | | | The **equivalent of EUR 250,000** for travel companies which commence their activity, in respect of organisation of package travel using air charters in the European states listed in the Appendix to this Regulation and in non-European states. | | | | | |
| **Portugal** | **NO** | There is only one mechanism in place in Portugal to protect consumers in case of insolvency: **the Travel and Tourism Guarantee Fund** (FGVT). This mechanism is regulated under Articles 37 to 40 of DL 17/2018 [which correspond in part to Article 17(1), first subparagraph and (2) of the Directive]. It applies both in case of travel packages and LTAs.<br><br>The FGVT is jointly and severally liable for the payment of travellers' claims arising from breach of services contracted from travel and tourism agencies. | The payments relating to the isolated purchase of air travel tickets and those relating to travel on the basis of a general agreement for the arrangement of business travel are specifically excluded from the scope of the FGVT. | The law states that the FGVT has a minimum amount of **4 000 000 EUR.** This means that, in the event of bankruptcy of a trader invoicing in high season 30, 40 or 50 million euros, there will not be enough money to cover the repayment of sums paid to customers who have not travelled. **In practice, however, the amount is much higher, currently reaching over € 5,500,000.00**.<br><br>The FGVT is financed by travel and tourism agencies by means of **a single contribution of 2,500 EUR**. More particularly, when entering the market, DL 17/2018 requires | **Risks covered by the civil liability insurance, as follows:**<br><br>In addition to subscribing to the FGVT, a travel and tourism agency has to have a **civil liability insurance.** As laid down in Article 41(1) of DL 17/2018 [which corresponds in part to Article 17(1), first subparagraph of the Directive], such insurance covers **the risks arising from the activity of travel and tourism** | **NO** | **YES -** in the case of package travel, organising travel and tourism agencies are jointly and severally liable with the retail agencies. | The civil liability insurance covers the cost for repatriation of travellers, although it is not clear whether those costs are also covered in case of insolvency of the organiser.<br><br>No formula to calculate this cost | **NO** |

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| | | In addition to subscribing to the FGVT, a travel and tourism agency has to have a **civil liability insurance**. Such insurance covers the risks arising from the activity of travel and tourism agencies, ensuring the reimbursement of claims for personal injury and damage to property caused to clients or third parties by actions or omissions of the agency or its representatives. The insurance also covers, among others, the repatriation of clients and their assistance. It does not cover, however, costs of repatriation due to insolvency of the organisers | Claims for compensation for property or non-property damage, or travel or accident assistance expenses incurred while traveling are not covered by the FGVT but by the civil liability insurance. The FGVT also does not cover requests in the context of Regulation (EU) 261/2004. Turismo de Portugal, I.P. also replied that so | that all companies have to pay 2500 EUR, regardless of their volume of invoicing.<br><br>***Retailers are hampered due to the disproportionate contributions to the FGVT. Small and medium retail companies (which only trade) will have to pay, proportionally, more than large companies (responsible for creating the package and the respective risk).***<br><br>In cases where the FGVT falls below **3 000 000 EUR**, Turismo de Portugal, I.P (National Tourism Authority, a public institute under the supervision of the Ministry of Economy) notifies the travel and tourism agencies to make an **additional contribution until the FGVT reaches the minimum amount of 4 000 000 EUR**. This was also confirmed directly by Turismo de | **agencies**, ensuring the reimbursement of claims for **personal injury and damage to property** caused to clients or third parties by actions or omissions of the agency or its representatives.<br><br>Risks covered by the insolvency protection unclear | | | | |

| Member State | Insolvency protection requirements differ for package organisers and traders facilitating LTAs (YES/NO) | Type of insolvency protection mechanisms and relation among them | Exceptions on coverage | Method to determine the security requirements, such as insurance premium calculation and factors considered in the calculation (including minimum amount) | Risks typically covered by insolvency protection | Security depends on the type of packages/LTAs sold (including the mode of transport, the travel destination) | Responsibility of the retailer (Article 13) (YES/NO) and relevant B2B mechanisms | Calculation of the costs for repatriation | Different requirements for smaller companies (SMEs) (YES/NO) |
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| | | | far, it has not had a concrete situation leading to an analysis of possible limits on reimbursement. | Portugal, IP. Such contribution shall be paid within 30 days and, at the same time, the travel and tourism agency must make access available to the Simplified Company Information (IES) submitted for tax purposes as proof of its turnover.<br><br>The contributions are further regulated under Appendix I to DL 17/2018. Such Appendix provides that:<br>- for the provision of services ≤ 1 million EUR, the amount of annual contribution to the FGVT shall be of 200 EUR<br>- for the provision of services > 1 to 5 million EUR, the amount of annual contribution to the FGVT shall be of 500 EUR<br>- for the provision of services > 5 to 10 million EUR, the amount of annual contribution to the FGVT shall be of 1500 EUR | | | | | |

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| | | | | - for the provision of services > 10 to 30 million EUR, the amount of annual contribution to the FGVT shall be of 3500 EUR<br>- for the provision of services > 30 to 60 million EUR, the amount of annual contribution to the FGVT shall be of 7000 EUR<br>- for the provision of services > 60 to 100 million EUR, the amount of annual contribution to the FGVT shall be of 10 000 EUR<br>- for the provision of services > 100 million EUR, the amount of annual contribution to the FGVT shall be of 15 000 EUR.<br><br>Thus, all travel agencies (including those which did not marketed the package) are liable for additional contributions to the FGVT. The national law sets out therefore an objective liability in this regard. **In addition, companies** | | | | | |

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| | | | | **that invoice less pay proportionally more.** | | | | | |
| **Romania** | **YES** | In Romania there is a single mechanism for protecting consumers in case of insolvency: organising travel agencies must provide securities for the refund of all payments made by or on behalf of travellers.<br><br>These securities are represented by:<br>- **bank guarantee letter**,<br>- **insurance** policies,<br>- **fiduciary contracts**,<br>- **guarantee fund** for package travels (not described as only a project for the time being without any further clarification on its functionning) or<br>- **other legally established security instruments** (which are not listed/explained).<br><br>**Bank guarantee letter:**<br>The object of this instrument is the guarantee by the bank of the risk of non-payment by the organising travel | The most usual exceptions of coverage in the insurance contracts of the organisers of travel packages/ the traders facilitating LTAs (provided by law or contract) in order to cover the risk of their insolvency are the following:<br>a. The most important clause of the agreement is the one mentioned in Article 2205 of | The amount covered by the insolvency protection is normally calculated based on common criteria set out by the insurers (and, thus, not regulated by law) such as, e.g., **the number of package sold and the amount of pre-payment received in one month.** | The risks that are usually covered by the insurance contracts of travel organiser's/trader facilitating LTAs' are the following:<br>i. Repayment of the amounts already paid by the travellers;<br>ii. Repatriation costs for travellers in the event of the insolvency<br>iii. Repatriation costs for travellers in the event of the bankruptcy<br>iv. Professional Civil Liability of the organiser (This coverage | **YES** | **YES -** The organizer and the retailer have joint and several liability for the performance of the contract. | Calculated by each insurance policy covering distance and location | **NO** |

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| | | agency of the amounts paid by travellers, caused by the total or partial non-performance of the contracts of regarding the packages of travel contracts concluded with them, in case of insolvency organising travel agency. The bank is the issuer of the bank guarantee letter, the organising travel agency is the authorizing officer of the bank guarantee letter (within the meaning of the provisions of Art. 2321 of the Romanian Civil Code) and the Ministry of Tourism is the beneficiary of the letter of bank guarantee. The traveller is reimbursed by the issuer of the letter (in this case the bank). As the mechanism is described in the RO Procedure, ***the bank does not have an obligation to repatriate the traveller, but only to reimburse the costs of such operation***. The traveller must inform the issuer of the | Romanian Civil Code, which mentions that the insurance contract becomes void if, prior to the moment when the insurer's obligation produces effects, the insured risk occurred.<br>b. The most significant exception of coverage is the damage resulting from other causes, other than the insolvency.<br>c. Exception of | | includes any reimbursement of the sums paid by the travellers for services not provided in the event of the organizer's insolvency/bankruptcy).<br>v. Coverage of costs for deflecting legal claims. | | | | |

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| | | guarantee letter (the bank) about the refuse of repatriation (if applicable) by the travel agency.( which is supposed to organise it)<br><br>**Insurance policy:**<br>The insurance policy consists in guaranteeing by the insurance company the risk of non-payment by the travel agency of the amounts paid by travellers, caused by the total or partial non-performance of the contracts of regarding the packages of travel contracts concluded with them, in case of insolvency organising travel agency. The insurance company accepts to guarantee to the travellers, beneficiaries of the insurance policy, in case of the insolvency of the organizing travel agency, ***the payment of the amounts paid by them, as well as the repatriation or reimbursement of the cost of repatriation, as the case may be***. The insurance policy | coverage exists also when the insurance risk occurs due to the following circumstances:<br>i. War events or actions, civil war, revolution, popular riots.<br>ii. Cases of force majeure: Earthquake, sedimentation, landslide, storm, tsunami, volcanic eruption or other natural phenomena. These exceptions are not provided as an example in the | | | | | | |

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| | | with franchise is forbidden. The insurance company has the obligation, when notified by the traveller, that within 12 hours to insure the repatriation of travellers or to offer alternative services.<br><br>**Fiduciary contract**: They are conceptualised as the signing in authentic form of this type of contract, according with the provisions of Title IV, Art. 773-791 of the Romanian Civil Code, between the organising travel agency, as a constituent, and a trustee, for the benefit of the travellers. The original of the contract must be provided to the Ministry of Tourism. The trustee will pay the travel packages and transport services necessary for the repatriation of the passengers based on the documents and data made available by the organising agency (the constitutor), through its legal | Romanian law, but they are included most of the times in the insurance contracts. d. The insurance companies do not cover also damages to the applicant for loss of earnings unless expressly mentioned therein [Article 2222(2) of Romanian Civil Code]. e. The insurance companies do not cover also damages or losses of personal belongings, luggage, | | | | | | |

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| | | representatives, being exempted from any liability in case of non-transmission or improper transmission of the situations regarding the affected traveller or other information required to make payments.<br><br>These securities could work either separately or jointly, but this is only optional for each organising travel agency to ***provide at least two separate securities***. | money, valuables and travel documents.<br>f. The insurance companies do not cover other costs claimed by the tourist (excepting the amount spent and the cost of repatriation).<br>g. The insurance companies do not cover the fraud or bad intentions of the traveller. In addition, it should be noted that the insurance contracts | | | | | | |

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| | | | covering the insurance risk of the organiser's/trader's facilitating LTAs' insolvency are always combined in practice with the trader's general civil and professional liability insurance contract. Thus, these contracts contain extra exceptions relating to the insurance of general civil liability (and professional liability). In case of a fiduciary | | | | | | |

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| | | | contract, the trustee is exempted from any liability in case of non-transmission or improper transmission of the situations regarding the affected traveller or other information required to make payments.<br>In the case of letter of guarantee the sole exception is regarding the abuse or fraud events, when the issuer is not obliged to pay the | | | | | | |

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| | | | covered amount. The Guarantee Fund is not effective at this moment in Romania. | | | | | | |
| **Spain** | **YES** - The national legislation on insolvency schemes applies to package travels and linked travel arrangements.<br><br>Nevertheless, the national legislation on | According to the national legislation transposing the Directive, the insolvency security may be provided under the form of an **"individual security"** (an insurance, a bank guarantee or another financial guarantee), a **"collective security"** (through business associations that are lawfully set up, by making contributions to a solidarity security fund) or **"a specific insurance"** for each package (an insurance for each traveller).<br><br>This national legislation (based on "securities") has been adapted into the regional legislation of some regions (Andalusia, Aragon, Canary Islands, | **N/A** | This is rather a **competence of the Spanish regions** where there are different approaches. Some regions (Andalusia, Aragon, Canary Islands, Galicia, La Rioja, Madrid, Valence and Catalonia) require a "security" to cover the risk of the activity (in general terms) and the insolvency (in particular) of organisers and retailers, under one of the following modalities:<br><br>**(a) Individual security**: consisting of an insurance, a bank guarantee or other financial guarantee. During the first year of activity, this security shall cover a | **N/A** | **NO** | **YES** - Organisers and retailers have the same obligations, without making any distinction among them. They are subject to the same insolvency rules. | Not regulated | **NO** |

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| | the obligation to have a contract security only applies to package travels | Gallice, La Rioja, Madrid, Valence and Catalonia), while other regions have not adapted their legislation (based on "bonds" in favour of the corresponding public administrations) (Asturias, Balearic Islands, Cantabria, Castilla-La Mancha, Castilla and Leon, Murcia, Navarre, Basque Country, Ceuta and Melilla).<br>As a consequence, at **regional level**, there are two systems in place: **securities** (in line with the Directive) and **bonds**. These **bonds may be formalised by means of a transfer of money to the competent regional authority or a deposit of public bonds with the competent regional administration, a bank guarantee in favour of the given authority or a caution policy in favour of that same authority**.<br><br>**Securities** (in line with the Directive) may be | | **minimum amount of EUR 100.000**. From the **second year of activity, the amount of this security shall be equal, at least, to 5% of the turnover arising from the sales of packages by the organiser** or the retailer during the last year and, in any case, **the amount shall not be less than EUR 100.000**.<br><br>*In the case of Catalonia, the individual security may be provided by means of a bank guarantee or caution policy, and during the first year of activity, this security shall cover a minimum amount of EUR 100.000. From the second year of activity, the amount of this security shall be equal, at least, to 3% of the annual turnover of the travel agent and, in any case, the amount shall not be less than EUR 100.000 and not exceed EUR 300.000.*<br><br>**(b) Collective security**: through | | | | | |

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| | | directly enforced by travellers in case of insolvency of the organiser or the retailer, while the **bonds are only enforceable by the given public authority** that is the beneficiary of the bond if a judicial resolution or arbitration award is rendered. Both **securities and bonds may be individual** (provided by individual organisers, retailers or traders) or **collective** (provided by an association of organisers, retailers or traders to which they are adhered).<br><br>In addition to the insolvency security, the national law requires the hiring of a contract security to ensure compliance with the services of the package contract, which may be enforced by travellers directly to the cover scheme directly.<br><br>This security is a general contract security, while the | | business associations that are lawfully set up, by making contributions to a solidarity security fund.<br><br>**The amount of this collective security shall be minimum 50% of the sum of the earnings of the travel agencies that should severally provide according to the above point**. In no case the amount of the **global fund may be less than EUR 2.500.000**.<br><br>**(c) Security of each package**: an insurance is hired for each user of the package. On the other hand, **other regions** (Asturias, Balearic Islands, Cantabria, Castilla-La Mancha, Castilla and Leon, Murcia, Navarre, Basque Country, Ceuta and Melilla) require the provision of "**bonds**" (fianzas) to the treasury administrations of the corresponding regions to secure the same risks of insolvency or bankruptcy, so they are directly enforceable by the corresponding administrations only if a judicial resolution or arbitration award is rendered.<br><br>In general terms, these bonds may be provided | | | | | |

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| | | insolvency protection required by some Spanish regions is a specific insurance for insolvency situations.<br><br>As a consequence, according to the national measure, it can be concluded that insolvency situations must not be covered by the general contract liability security, although account should be taken of the specific terms of each contract liability security with regard to the liability of the organiser and traveller for their services. In the light of those specific terms, there **may be a duplication of security** with regard to insolvency situations if the contractual obligations of the organiser or retailer are not fulfilled, but not because of a mandatory requirement of the national measure.<br><br>In any event, **nothing is provided regarding the relationship between the** | | by **cash transfer** or **public bond**; **bank guarantee**; or caution **insurance policy**; and the bond may be provided individually or collectively, by means of their voluntary inclusion, through associations lawfully established, to a solidarity security fund.<br><br>Generally speaking, the minimum amount of the individual bonds shall be approximately:<br>(a) For **retailers: EUR 60.000**<br>(b) For **wholesalers: EUR 120.000**.<br>(c) For **wholesalers-retailers: EUR 180.000**.<br><br>At the same time, the travel agencies, in their different modalities, which have more than six commercial establishments shall, in general, increase the individual bond in the amount of EUR 12.000 for each additional establishment.<br><br>In general, the **minimum amount of collective bonds shall be 50% of the sum of the individual bonds** that, according to the above, should be provided by the associated companies, and **in no case of less than EUR 2.400.000** | | | | | |

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| | | **insolvency protection security and the contractual liability security**, and account should be taken of the specific terms of the contractual liability security, although the approach of the national measure is that they are complementary and not overlapping. | | **for national or regional associations** (some regions reduce this requirement for regional associations). When any of these companies have more than six commercial establishments, the amount of the collective bond shall, in general, be increased by EUR 6.000 for each additional establishment. | | | | | |
| **Slovenia** | **NO** | A travel organiser can provide security for the case of its liquidity problems in any of the following forms (*Article 58.a(6) of ZVPot and Article 4 of UJLTOP*):<br>**Insurance** with an insurance company<br>**Dedicated bank deposit**<br>**Bank guarantee**<br>Participation in a **guarantee scheme**.<br><br>Each of the mechanisms should cover the same risks to the same extent. Travel organisers are free to choose which of these mechanisms they will use in order to protect consumers in | N/A | The methodology for calculating the annual turnover related to the implementation of tourist packages, the conditions of operation of the guarantee scheme and the minimum amount of the required guarantee, which is considered effective, for an each of the mechanisms are determined by a governmental decree.<br><br>ZVPot requires in Article 58.a(1-2) that the security provided must be effective and must cover reasonably foreseeable costs, including the cost of the consumers' | The insurance contracts must cover the risks as prescribed in law. As follows from Article 58 of ZVPot, the risk covered is that the travel organiser will not be able to provide travel services already agreed and paid for by consumers due to its liquidity problems. If the package | **NO** - The rules requiring travel organisers and undertakings providing LTAs to provide security in case of liquidity problems do not distinguish between different types of package | **NO** | The calculation of repatriation costs is **not regulated in legislation.** Insurance companies expect that in a situation where repatriation of travellers is required, they will cooperate with their | **NO** |

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| | | case of liquidity problems.<br><br>*[A **guarantee scheme** is defined in Article 6 of UJLTOP as a collection of funds that are collected for the purpose of reimbursing all consumer payments and covering the costs of repatriating consumers under the responsibility of the travel organiser. The guarantee scheme may be formed within any legal entity that becomes the holder of the guarantee scheme. If a guarantee scheme is formed within an economic interest grouping, membership of that grouping must not be a condition for inclusion in that scheme. In any case, funds raised for the purpose of providing security must be kept in a separate dedicated account]* | | repatriation, where the package also includes carriage of passengers.<br><br>The security must be sufficient to cover all payments made by the consumer for the purposes of the tourist package during the period of the year for which demand is highest. When calculating the required amount of security, the type and price of the tourist packages, the type of transport and the length of the period between advance payments and final payments and the completion of the tourist package must be taken into account UJLTOP prescribes in Article 5 that the **minimum amount of the required guarantee in the form of insurance with an <u>insurance company, a dedicated bank deposit or a bank guarantee</u> must provide coverage of at least 10 percent of the annual turnover** | includes carriage of passengers, the insurance must cover also the risk of having to cover the cost of the consumers' repatriation in case of travel organiser's liquidity problems | s or LTAs or between different modes of providing these services | | assistance partner in the relevant country, who will get into touch with transportation service providers to find the most appropriate repatriation option | |

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| | | | | **of the travel organisers.**<br><br>**For a travel organiser who has not had annual turnover in the previous financial year the minimum amount of the guarantee required must provide coverage of at least 10 percent of the planned annual turnover**.<br><br>In case of **guarantee schemes**, the **minimum amount of the required guarantee must be at least 2 percent of the combined total annual turnover of all travel organisers included in the guarantee scheme**.<br><br>The annual turnover is calculated on the basis of sales revenue from the organisation of travel and the provision of linked travel arrangements during the previous financial year. The planned annual turnover is calculated on the basis of the | | | | | |

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| | | | | projected turnover from the organization of travel and the provision of linked travel arrangements in the current financial year. | | | | | |
| **Slovakia** | **NO** | **Insurance agreement** or **bank guarantee agreement** concluded between a tour operator agency and the provider of protection in the case of insolvency (Section 2(d) of Act No 170/2018). TO agency free to decide between the two. The insolvency protection based on insurance is the preferred one. | The most usual exceptions of coverage in the insurance contracts:<br><br>Quality of the services provided in the contract; Claims of those persons who are employees, statutory members or persons taking part in the business of the tour operator agency or their spouse, relatives in a direct | The amount of insurance premium is determined by the insurance company, on the basis of various factors resulting from the data in questionnaire, which a tour operator agency completes before entering into insurance agreement.<br><br>Minimum and maximum insurance premium is not set by national legislation, but the insurance company has the right to set minimum insurance premiums in the insurance agreement. It should also be noted that pursuant to Section 9(2) of Act No 170/2018, a tour operator agency shall agree with the provider of insolvency protection on the sum ensuring protection that must amount to **at** | Reimbursement of the sums paid by the travellers for services not provided in the event of the tour operator agency's insolvency and repatriation for travellers in the event of the insolvency. | **YES** | **NO** | The national legislation does not set out a system for the calculation of the costs of repatriation. In the event that the traveller arranges their own repatriation, the insurer's liability shall be limited to the actual expenses that would have been incurred had the repatriati | **NO** |

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| | | | line, or a person living with them in the common household, unless agreed otherwise **Damage arising from technical failure, war, war events, terrorist acts, strikes, natural disasters etc** Damage resulting from the insolvency of a person other than the policyholder (e.g., other than the tour operator agency in question) Any conseque | **least 30 % of the planned annual revenue from the sale of package travel and LTAs**.<br><br>**If the planned revenues are to be lower** than in the previous year, the tour operator agency shall agree on a sum ensuring insolvency protection that amounts to **at least 30 % of the revenues from the sale of package travel and the facilitation and sale of LTAs in the previous year**. | | | | on been provided by the tour operator agency/insurer itself. | |

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| | | | ntial damage (e.g. fines, lost profits) | | | | | | |
| **Sweden** | **NO** | National legislation establishes one mechanism for protecting travellers in case of insolvency. It can, however, be arranged in a number of different ways. In line with RGL Section 13, a travel guarantee can consist of:<br><br>1) a **payment pledge that has been issued by a bank**, a **credit institution** or and **insurance company** and that it honoured upon request,<br>2) **insurance** cover,<br>3) **deposited funds**, or<br>4) **any other similar commitment**.<br><br>Where the travel guarantee consists of an insurance policy, the policy shall be issued by an insurer who is authorised to pursue and insurance activity in an EEA country or in a country that is a member of the Organisation for Economic Cooperation and Development (OECD).<br><br>However, the Kammarkollegiet may approve a travel | If a package or a linked travel arrangement does not contain carriage of passengers and if all payments are made in arrears, the travel service operator does not need to arrange insolvency protection for that package /LTA.<br><br>The traveller does not have the right to be reimbursed if they have received reimbursement for the package | **<u>Calculation of the guarantee</u>:**<br>Details and guidelines on calculating the premium are available at the website of *Kammarkollegiet*. The information available there specifies that the size of the guarantee is established on a per month basis and needs to be applicable until further notice. The following factors are taken into consideration in the calculation:<br><br>- Number of travellers per month;<br>- The cost of the arrangements;<br>- How much the traveller paid in advance in fees and cancellation cover;<br>- When the down payment is to be made;<br>- How long before departure the final payment must be made; and | **N/A** | **YES** | **NO** | In accordance with Section 6, second subparagraph of the Travel Guarantee Act, the travel guarantee shall ensure home transport and accommodation in connection with home transport. Kammarkollegiet requests documentation from the trader and asks him/her to indicate | **NO** |

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| | | guarantee in the form of an insurance policy arranged by someone other than an insurer as referred to in the first paragraph if the requirements applicable to the party responsible for the travel guarantee are sufficient to assume that the party is in a position to meet its commitments.<br><br>Where the travel guarantee consists of deposited funds, these funds shall be deposited with the Kammarkollegiet, with a credit institution authorised to carry out banking or financial operations pursuant to the Banking and Financial Operations Act (2004:297) or with a credit institution within the meaning of Article 4(1)(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 which is authorised and supervised by the competent authorities of another country within the EEA | /LTA elsewhere. | - Standard cost for home transport.<br><br>The sum of the items is increased by ten percent to cover any increase in the number of travellers and costs in relation to what was budgeted. The sum is rounded to an even amount. The minimum amount which can be arrange in a travel guarantee is SEK 50,000 (approximately **4,700 EUR**). No maximum amount is provided. | | | | the number of travellers each month as well as the means of transport in question. Based on this information, Kammarkollegiet makes a calculation of how much a trader's travel guarantee should be, and in connection with this, adds a standard amount that varies depending on the means of transport for home | |

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| | | | | | | | | transport costs for each specified traveller. | |